

DOCUMENTS ON KASHMIR PROBLEM

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Edited by
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VOL. XII

Discovery Publishing House
NEW DELHI-110002

MAIN

First Published, 1991

@ Editors

ISBN 81-7141-155-X (Set)

Published by : DISCOVERY PUBLISHING HOUSE
4594/9, Darya Ganj, New Delhi-110002

Printed in India at Gaurav Printers, Maujpur Delhi-110053.

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Introduction

The history and culture of Jammu and Kashmir were part of the pan-Indian civilization. It was partly due to geography, the Himalayas and the Western and Eastern ranges separating it from rest of the world, and partly due to the Brahmanical culture, with Sanskrit as the *lingua franca*, which gave it a unity in the eyes of the upper strata of society. From centuries, Kashmir remained free from racism, communalism and casteism even during the communal structure of Dogra Raj. The National Movement against the feudal exploitation, led by Sheikh Abdullah, which was started in 1930 and continued upto 1947, was the result of the growth of national consciousness in Jammu and Kashmir. Various national leaders of India, including Pandit Jawaharlal Nebru and Maulana Abdul Kalam Azad recognized the democratic and nationalist spirit of this struggle. But British imperialists and the Hindu press tried to interpret and project it as a "result of the dispute between the Hindus and the Muslims". Inspites, this anti-feudal movement was participated by a broad section of peasants and artisans came out to fight in the streets. This insurgency of 1931 awakened the national aspirations of the Kashmiris, which ultimately helped in the emergence of a composite Kashmiri culture without any emphasis on Muslim sectarianism. By 1939, every conscious member of Hindu, Muslim and Sikh community joined the national movement. The anti-feudal and anti-imperialist struggle reached another high pitch in 1946. The AJKNC launched the "Quit Kashmir" movement and submitted a memorandum to the Cabinet

Mission of 1946 demanding absolute right to freedom from the autocratic rule of the Dogra house. The movement was to counter the threat of Muslim communalism that was spread in the wake of Pakistan movement of Muslim League. It also salvaged the tradition of secular nationalism in Kashmir, Launching this struggle for a decisive victory. Sheikh Abdullah, on 15 May 1946, reiterated at Srinagar that "the demand that the princely order should quit the state is a logical extension of the policy of "Quit India". When the freedom movement demands complete withdrawal of British power, logically enough the stooges of British imperialism should also go and restore sovereignty to its real owners, the people...the rulers of Indian states have always played traitor to the cause of Indian freedom. A revolution upturned the mighty Tsars and the French Revolution made short work of the ruling class of France. The time has come to tear up the treaty of Amritsar, and quit Kashmir. Sovereignty is not the birth right of Maharaja Hari Singh, Quit Kashmir is not a question of revolt. It is a matter of right". The Sheikh was arrested on the charge of sedition against the Maharaja. Following his arrest whole valley rose in an uprising. On 19 June 1946 Pandit Jawaharlal Nehru, Aruna Asaf Ali, Dewan Chaman Lal and Tilak Raj Chadha went to Srinagar to defend Sheikh Abdullah at his trial but were arrested by the Maharaja's administration. On his return to Delhi, Nehru complained to Gandhiji and Maulana Azad, the Congress President that people in Kashmir were groaning under the reign of terror. Mahatma Gandhi visited Kashmir in August 1947 as a guest of National Conference.

The 'Quit Kashmir' movement kept the Muslim communalism in Kashmir at bay. Immediately after independence and the creation of Pakistan Jinnah decided to wrest Kashmir by force and sent raiders for this purpose. The Maharaja of Kashmir was fled. Jawaharlal Nehru decided to send troops to rescue Kashmir on the request of the Maharaja on 24 October 1947. It was done after Kashmir had legally acceded to India. On 26 October 1947 Sheikh Abdullah also formed a peace brigade and the peoples' militia to defeat the aggression

of Pakistan in the valley of Kashmir. Sheikh Abdullah, the doyen of nationalism, succeeded in restoring Hindu-Muslim harmony in the valley when the rest of India was burning by communal holocaust. There was a good rapport between Sheikh Abdullah, Mahatma Gandhi and Pandit Jawaharlal Nehru. Congress demanded the release of Sheikh Abdullah, and the establishment of popular government in Jammu and Kashmir. National Conference favoured accession of India without instrument of accession.

The Pakistan reacted sharply and contested the validity of the accession. India took the Kashmir question to the Security Council of the United Nations on 1 January 1948 [S/628]. Pakistan made counter complaint [S/646] but admitted that some tribesmen from Pakistan might be helping the "Azad Kashmir government". After debate the Security Council passed two resolutions [S/651 and S/654]. It appointed a three member Commission to investigate and mediate in the matter. On 13 August 1948 the UNCIP submitted a report to the Council in three parts [S/1100; S/1196, and S/1430]. Part first of the report contained provisions for a cease fire. Part two dealt with a truce agreement, and Part third with the holding of a plebiscite after the implementation of first two parts. India agreed but Pakistan did not. Later on both countries accepted the proposal submitted by the UNCIP to the Security Council on 5 January 1949 dealing with the plebiscite. The cease fire came into effect by 1 January 1949 and a cease fire line was agreed upon in July 1949. But a truce agreement could not be finalised due to opposite stands of both the countries.

The Security Council then appointed mediators. In 1949 General Mc Naughton of Canada was appointed as a mediator who's proposal was rejected by India. Sir Owen Dixon of Australia also could not succeed because he proposed the partition of Kashmir between both the countries rather than a plebiscite (S/1791). Frank P. Graham of the USA was the third mediator appointed in April 1951 also met with the same fate, however, he suggested a direct negotiation between India and Pakistan. He submitted five reports S/2375, S/2448, S/2611, S/2783 and S/2967.

In July-August 1953 and in May 1955 the Prime Minister of both India and Pakistan started negotiated settlement which ultimately failed. After a gap of five years the Pakistan Foreign Minister F.K. Noon raised the Kashmir issue in the UN Security Council and call upon India to refrain from accepting any change in the new constitution of Kashmir—the State of Jammu and Kashmir is and shall be an integral part of the Union of India—and to accept a plebiscite [SCOR, 12th Yr., Mtg. 761]. Mr. V.K. Krishna Menon, the Indian representative informed the Council that the conditions for holding a plebiscite changed in Kashmir. [SCOR, 12th Yr. Mtgs. 762, 723 and 794]. The Security Council favoured plebiscite by adopting a resolution [S/3739] on 24 January 1957. On 21 February 1957 President Gunnar Jarring of Sweden was asked to act as mediator but India refused to accept him for the implementation of the UNCIP resolution, [S/2821].

Meanwhile, the National Conference demanded special status and autonomy for Kashmir in the political—constitutional framework of Indian political system. Article 370 of the Indian Constitution granted Kashmir a special position. It produced a hostile backlash among the Hindi-Hindu fanatics including Sardar Patel and Hindu lobby which demanded conformity of minority to Hindu majority views as well as uniformity by force. In Kashmir this Hindu lobby started non-cooperation movement against the government led by Sheikh. It was supported by the Jana Sangh, the Hindu Mahasabha, the RSS and even by the Akali Leader Master Tara Singh and Mr. S.P. Mookerjee. They criticised Nehru's appeasement policy towards Kashmir. Mr. Mookerjee called this policy as "national liability". This non-cooperation was also supported by Jayaprakash Narayan and Acharya Kripalani. This fanning of the flame of Hindu communalism—especially, in Delhi, Uttar Pradesh and Punjab—resulted in the ambivalence in Sheikh's position about accession to India. Nehru succumbed before these reactionary elements ultimately. Sheikh Abdullah now came to the conclusion "that there was no middle course between full integration and full autonomy, and as the majority in Kashmir would not accept the first alternative, there was no choice but to accept the second."

Finally on midnight of 8-9 August 1953, the popularly elected leader of Kashmir was dismissed and imprisoned in a most undemocratic and uncereemonious fashion by violating the special provisions made in the Article 370 of the Constitution.

On 2 December 1957 Security Council passed a resolution S/3922 after considering the Jarring report and directed P. Graham to make recommendations [S/3984] to the parties for facilitating a peaceful settlement and for the implementation of the resolution of the UNCIP of 13 August 1948 and 5 January 1949. The Graham report was rejected by India.

During Ayub Khan's regime Nehru-Ayub talks commenced in 1959 and 1960. On 6 October 1960 President Ayub Khan gave a threat of Military settlement of the Kashmir Problems. Threats and counter threats continued till Chinese aggression on India in October 1962. Besides Pakistani slogan of *Jehad* President Ayub Khan put pressure on USA to exercise its influence for the settlement of the Kashmir issue. The matter was again raised in the Security Council on 1 February 1962 by Pakistan Permanent Representative Zafrullah Khan who asked the Council to take up the consideration of the dispute and to secure to the Kashmiri people their right of self-determination [SCOR, 17 Yr. Mtg. 990]. In the subsequent meetings of the Security Council [Mtgs. 1007 to 1016] Mr. Zafrullah Khan put forward his arguments in support of Pakistan's claim over Kashmir. Mr. C.S. Jha, India's permanent representative to the UN and Defence Minister Krishna Menon contested the Pakistani contentions [SCOR, Mtg. nos. 1009, 1011 and 1016] and supported by the U.S. representative and Indian position by the Soviet and Rumanian representatives. US and British representatives on 27 April 1962 tried to persuade the UN Secretary General U Thant for negotiating settlement. The issue was again raised by Mr. Plimpton, US representative, on 21 June 1962 and on 22 June 1962 when he succeeded in persuading the Irish representative to introduce draft resolution which was vetoed out by the Soviet Union [SCOR, 17 Yr. Mtg. 1016]. Prime Minister Jawaharlal Nehru expressed deep concern over the attitude of Great Powers—the U.S.A. and the U.K. After the Chinese invasion on India both Nehru and

Ayub agreed for negotiated settlement. Six round of Bhutto—Swaran Singh talks were held between 27 December 1962 to 16 May 1963. The talks failed on the question of distribution of areas.

The disturbances in Kashmir on the disappearance of the hair of prophet Mohammad from the Hazaratbal shrine on the night of 26-27 December 1963 gave opportunity to Pakistan to raise Kashmir question in the Security Council. Though the hair was recovered, Pakistan's Minister of External Affairs, Z.A. Bhutto sent a letter to the Security Council for an urgent meeting [S/5516] to debate on grave situation of the State. Mr. Bhutto asked for a "move towards an honourable and joint solution" of the problem in Security Council's meetings held between 7 February to 11 May 1964 [Mtgs. Nos. 1087, 1089, 1104, 1112 and 1114]. Refuting the charges Mr. M.C. Chagla and Mr. B.N. Chakraverti described the incident as "purely a domestic matter". [Mtg. nos. 1088, 1104, 1113 and 1115]. Though Mr. Roger Seydoux, President of the Council submitted his statement on 18 May 1964 but nothing tangible came out of the debate. [SCOR, Mtg. no. 117].

The Indian government released Sheikh Abdullah on 8 April 1964 withdrawing all charges against him. He was sent to Pakistan to resolve the issue but sudden death of Nehru on 27 May 1964 dashed all hopes. Ayub-Shastri meeting on 12 October 1964 at Karachi and J.P. Narayan's visit to Pakistan brought no change in the attitude of both the countries. Meanwhile Sheikh Abdullah was again arrested on 8 May 1965 on charge anti-India propaganda. Sino-Pak unison persuaded Pakistan to send armed infiltration into the valley from 6 August 1965. India reacted against this attack specially in the Chhamb. The war was stopped on 22 September. Tashkent Declarations, signed on 10 January 1966 restored the *status quo* in Jammu and Kashmir as it was existed before the 5 August 1965. The Pakistan Foreign Secretary Aziz Ahmed and later on 14 January 1966 President Ayub Khan declared that peace could not be achieved unless the dispute over Jammu and Kashmir was settled honourably and equitably. Bhutto also

blamed India for creation of the problem. Talking to the British Prime Minister Harold Wilson on 23 November 1966, Pakistani President Ayub Khan said that people of Kashmir "did not like Indian rule" and added that India did not honour the commitment under the Tashkent Declaration. Not only this while speaking before the UN General Assembly meeting on 29 September 1966 Pakistan Foreign Minister, Sharifuddin Pirzada accused India for not honouring the UNCIP resolution of 13 August 1948 and 5 January 1949 about holding of a free and impartial plebiscite [GAOR, Pln. Mtg. 1423]. He also tried to raise this issue in the Commonwealth Prime Ministers' meeting held in London on 13 September 1966. He charged the Indian government with reluctance to allow the Kashmiri people to exercise the right of self-determination. Even Prime Minister Mrs. Indira Gandhi gave a statement in Lok Sabha that "India is not obliged by the Tashkent Declaration to settle the Kashmir dispute with Pakistan". Pakistan government started anti-India propaganda. Ayub Khan described Indian army as "special danger to Pakistan". He stressed on the solution of the Kashmir problem. On 10 October 1967 Pakistani Foreign Minister Mr. S. Pirzada raised a question in the UN General Assembly meeting [GAOR, Pln. Mt. 1584] and demanded "self-determination" for the people of Kashmir, to which India was committed. Similar demands were made by Arshad Hussain, the new foreign minister of Pakistan in the UN General Assembly meeting [GAOR, Pl, Mtg. 1982] and Pakistan's National Affairs Minister Nawabzada Muhammad Sher Ali Khan, [GAOR Pln. Mtg. 1775] on October 2, 1969. Pakistani Home Minister Sardar Hamid accused India for avoiding discussions in the United Nations [GAOR, Pln. Mtg. 1853] on 29 September 1970. Meanwhile, Pakistani press, specially *Pakistan Times* and *Dawn* made vehement propaganda against India. "That India is suppressing freedom of the press in occupied Kashmir and adopting ruthless measures in curbing the students and youth" Kashmiris are treated as second class citizens. Pakistan supported the terrorists in Kashmir.

A hand grenade was thrown on the Kashmir Chief Minister, G.M. Sadiq on 16 May 1966. Terrorists confessed that they

were imparted training by Pakistani officers. The subversive activities of the Pakistani infiltrators continued till date. The cease-fire violations took place frequently. Both India and Pakistan accused each other for violation of cease-fire agreement. In short Kashmir remained full disturbed between 1966 and 1969.

Pakistan protested strongly against India's measures to extend the application of Indian laws to Kashmir and described these contrary to the UNCIP and other resolutions of the United Nations. These bills, according to Pakistan, would give sweeping powers to the Indian Government to outlaw any organisation or any individual found guilty of questioning the India's sovereignty over any of the territories.

On 11 January 1968 Prime Minister Mrs. Indira Gandhi and Deputy Prime Minister, Morarji Desai desired to normalise relations with Pakistan by implementation of Tashkent Agreement but Pakistan did not respond favourably. Pakistan was insisting on "meaningful discussions on Kashmir". India's appeal to Pakistan for no-war pact was turned down by Ayub Khan who described this proposal as "misleading" unless Kashmir dispute was solved. During the time Sheikh Abdullah and Mirza Afzal Beg were released from Jail on 3 January 1968. They demanded self determination for the Kashmiris. The hostile and anti-India attitude of Sheikh Abdullah put India in embarrassing situation.

General A.M. Yahya Khan who assumed the charge from President Ayub Khan on 25 March 1969 showed his willingness for some time to establish a peaceful atmosphere between the two countries. Mrs. Indira Gandhi sent a personal letter to Mr. Khan on 22 June 1969 and suggested to revive the no-war pact proposal and a joint machinery to examine comprehensively all aspects of normalisation of relation. General Yahya Khan accepted the proposal with provision that the machinery of Indo-Pakistani body should discuss all issues including Kashmir and Farakka barrage. But after the exchange of letters between the two governments, no follow-up actions could be taken up by either of the governments. Instead

President Yahya Khan banned all the exchange of printed materials between India and Pakistan, commercial, economic and cultural relations were completely cut off. Tashkent agreement, though Mrs. Indira Gandhi wanted to implement, went unsung and unheard. On 28 July 1970 President Yahya Khan again asked for amicable solution for Kashmir problem to establish cordial relations between both the countries.

Mr. Z.A. Bhutto advocated for quasi-military approach for the solution. Ashohar Khan recommended Algeria type struggle for Kashmir liberation. General Yahya Khan raised Kashmir's issue in UN General Assembly in October 1970 and demanded 'self determination' and withdrawal of forces of the two countries. India rejected the proposal and told that the State's accession to India in 1949 was complete. However, India favoured bilateral talks under Tashkent spirit. Mr. Z.A. Bhutto exploited the situation by raising war bogey against India. He formed Pakistan People's Party on 1 December 1967. December 1970 polls in Pakistan brought conflict between East and West Pakistan, ultimately resulted into the creation of Bangladesh. India-Pakistan relations were further deteriorated when on 30 January 1971 an Indian Airlines plane was hijacked to Lahore with Pakistani connivance and was allowed to be blown up at the Lahore airport. Hijackers were granted asylum and were given hero's welcome there. India banned all Pak flights over the Indian territory. After India-Pakistan war of 1971 both Mrs. Indira Gandhi and Mr. Z.A. Bhutto on 2 July 1972 concluded an agreement at Simla. It was promised to respect line of control resulting from the cease-fire of December 17, 1971 in Jammu and Kashmir. They also decided to settle the Kashmir issue by mutual talks. President Zia-ul-Haq, Prime Minister Benazir Bhutto, Rajiv Gandhi, V.P. Singh and Sheikh Abdullah came and went but the Kashmir remained unsolved.

Documents on Kashmir Problem is an excellent attempt of authentic and comprehensive compilation of published documents and other literature on the subject—Kashmir dispute. It presents the text of important documents including publications of the Government of India and Pakistan, United

Nations official documents, treatments, treaties, agreements, proposals, debates—both in UN Security Council, General Assembly—and Parliamentary debates— reports and recommendations, letters, telegrammes etc. The publication would help the research scholars, academicians, educationists, politicians as well as curious laymen in understanding the issue. Compilers have made an honest attempt to be objective and impartial in compiling, editing and presenting the documents to prove their authenticity the sources of documents are also added.

We express our deep sense of indebtedness to the library staff of Indian Council of World Affairs Library, New Delhi, Nehru Memorial Museum Library, New Delhi, United Nations Information Centre, New Delhi, Jawahar Lal Nehru University Library, New Delhi, and Ministry of External Affairs Library, New Delhi for the help rendered to us during our visits there.

Documents in Support of United Nations Commission for India and Pakistan Report

1. *Text of the note of meeting held at the residence of the Foreign Minister, Pakistan, Sir Mohammad Zafrulla Khan, at Karachi on February 8, 1949 (UN Document No. S/AC/12/Info. 10)*

Present

Government of Pakistan: Sir Mohammad Zafrulla Khan, Minister for Foreign Affairs; Mr. M.A. Gurmani, Minister for Kashmir Affairs; Mr. M. Ayub, Liaison Officer; Mr. A.A. Khan, Under Secretary.

Members of the Commission: Mr. Alfredo Lozano, Mr. Hernando Samper (Colombia).

The Foreign Minister thanked Mr. Lozano and Mr. Samper for giving him this opportunity of placing before them some of the doubts and misgivings entertained by the Pakistan Government with regard to the notes of the meetings between Mr. Lozano and the Prime Minister of India at New Delhi on 20 and 22 December 1948, a copy of which was communicated by Mr. Colban to the Pakistan High Commissioner in New Delhi on 28 December 1948. The Foreign Minister reminded Mr. Lozano that the Pakistan Government

had accepted the Commission's proposals of 11 December 1948 (S/1196, annex 3) on 25 December 1948, as explained and clarified to the Pakistan Government by Mr. Lozano in his memorandum of 25 December 1948. The Pakistan Government, therefore, did not consider itself to be bound in any way by any clarifications or elucidations that might have been given by the Commission to the Government of India.

Mr. Lozano replied that this position was fully appreciated by the Commission. He welcomed the opportunity of removing any doubts or misgivings which might have arisen in the mind of the Pakistan Government with regard to the clarifications given to the Government of India.

The Foreign Minister observed that to facilitate discussion of the matter, a memorandum had been prepared analyzing the aide-memoire relating to Mr. Lozano's meetings at New Delhi on 20 and 22 December 1948 (S/1196, annex 4), and setting out the views of the Pakistan Government with regard to them. (The Foreign Minister then handed over to Mr. Lozano Mr. Gurmani's letter of 7 February 1949, together with its enclosure.) The Foreign Minister suggested and Mr. Lozano agreed that this memorandum might be discussed paragraph by paragraph so as to reduce to the minimum the points which required the consideration of the Commission as a whole. The result of the discussion is given in the succeeding paragraphs. (References are to the items in the memorandum attached to Mr. Gurmani's letter of 7 February 1949.)

AIDE-MEMOIRE No. 1

Item (i)—Mr. Lozano confirmed that the only question for determination was whether the State of Jammu and Kashmir should accede to India or to Pakistan, and that this was to be determined through "the democratic method of a free and impartial plebiscite" as stated in clause 1 of the Commission's resolution of 5 January 1949. Mr. Lozano added that he had made it clear in the conversations with the Prime Minister of India that the Commission could not, at

that stage, consider any other method of ascertaining the wishes of the people of Jammu and Kashmir, but "it would be up to the Plebiscite Administrator to report to the Security Council (through the Commission), if he found the plebiscite procedure to be impossible for technical or practical reasons". Mr. Lozano remarked that it was implicit in the whole arrangement and had been clearly stated by him in the general clause of his memorandum of 25 December 1948, that no modifications or additions to the Commission's proposals of 11 December 1948, subsequently embodied in the Commission's resolution of 5 January 1949 (S/1430, paragraph 143), could be entertained unless they were acceptable to the Commission and to the Governments of India and Pakistan.

The Minister for Kashmir Affairs thanked Mr. Lozano for his clarification of the position, and remarked that the wording of paragraph 3 of the first aide-memoire might tend to encourage the Government of India, and the Maharaja's Government in particular, to place difficulties in the way of the conduct and organization of a free and impartial plebiscite, if not to make it altogether impossible to hold. He wanted an assurance that lack of cooperation from either side would not be regarded as a practical and technical reason for not holding the plebiscite. Mr. Lozano gave this assurance.

Items (ii) and (iii)—The Foreign Minister recalled that during the discussions in Paris in November-December 1948, the Pakistan representatives had requested the Commission to specify the powers of the Plebiscite Administrator, particularly with regard to such exercise of its authority by the administration as might affect the freedom and impartiality of the plebiscite. It was suggested in particular that the Plebiscite Administrator should have the powers of direction and supervision over the State forces and police, and over government officials of the revenue, forest, civil supplies and other departments to the extent that this was necessary to organize and conduct the plebiscite and to ensure its freedom and impartiality. The Commission had argued that it was unnecessary to do so, as clause B. 3 (b) of its draft proposals of

11 December 1948 (S/1196, annex 3) vested the Plebiscite Administrator with all the powers that he considered necessary for organizing and conducting the plebiscite and for ensuring its freedom and impartiality, and that the manner in which these powers would be exercised and other details would have to be settled with the Plebiscite Administrator under clause B. 10 of the Commission's proposals. The Pakistan representatives acquiesced in this view, but were disturbed at the attempt of the Indian representatives to exclude certain powers from the purview of the authority of the Plebiscite Administrator.

Mr. Lozano agreed that he had stated to the Prime Minister of India that the words "direction and supervision of the State forces and police" had been deliberately omitted from the Commission's proposals, and that it was not the intention of the Commission that the Plebiscite Administrator should interfere with the day-to-day administration of the State. At the same time, it had been made clear in the discussions with the Prime Minister of India that the Plebiscite Administrator would exercise all the powers which he considered necessary for organizing and conducting the plebiscite and for ensuring its freedom and impartiality. If anything was done by the Government of Jammu and Kashmir or the "local authorities" which, in the view of the Plebiscite Administrator, militated against the plebiscite being free and impartial, the Administrator would have full authority to rectify the situation.

Item (iv)—Mr. Lozano remarked that the Prime Minister of India was greatly concerned with regard to the large number of Azad forces which would be left in the areas to be evacuated by the Pakistan Army under the terms of the truce, and therefore, he reassured him that it was the intention of the Commission that there should be large-scale disarming of these forces. Mr. Lozano added that it was not the Commission's intention that this disarming should take place during the truce period and that on this point the position had been correctly stated in paragraph 2(c) of the Commission's letter

of 19 September 1948 to the Foreign Minister of Pakistan. With regard to the plebiscite stage, action would be taken in accordance with clause 4(b) of Mr. Lozano's memorandum of 25 December 1948.

Item (v)—Mr. Lozano and Mr. Samper explained that the provision with regard to the return of refugees to the State had been made out of a desire to solve a difficult human problem, and to enable all the citizens of the State to participate in the plebiscite. The Commission had not had the time or opportunity so far to examine the problem in all its aspects or to work out the manner in which its proposal should be implemented in practice. As far as they were aware, it was UNCIP's intention that the Pakistan commission should operate only within Pakistan, and the Indian commission only within the territory of India. Neither commission would on its own operate within the territory of the State of Jammu and Kashmir, but the two commissions would, no doubt, advise and assist the Plebiscite Administrator in evolving a machinery for facilitating the return of the refugees to the State. Mr. Lozano and Mr. Samper added that this represented their own tentative views, and should not be taken to bind the Commission. They confirmed, however, as was clear from the language of clause 6 (a) of the Commission's resolution of 5 January, that the Commission's intention was to enable the citizens of the State to return to the State and to exercise all their rights as such citizens, but that the Commission had not yet considered matters pertaining to the rehabilitation of the refugees in their original homes.

Item (vi)—The Foreign Minister recalled that during the discussions in Paris he had explained to the Commission that whereas certain persons, such as bona fide tourists, traders, etc., had entered the State for a lawful purpose, there were several other categories, such as R.S.S. and Sikh terrorist bands and a large number of non-Muslims from India, who had been planted in various parts of the State, particularly in the Jammu province, who could not be said to have gone into the State for a lawful purpose, and should, therefore, be asked

to leave before the plebiscite was held. This was quite apart from the fact that only the nationals of the State could participate in the plebiscite. The Foreign Minister added that he had not insisted on a definition of the term "lawful purpose" because he agreed with the Commission that this was one of the matters which would come up for discussion under clause B. 10 of its proposals of 11 December. He, however, could not agree that one of the parties to the dispute, namely, the Maharaja's Government, would have the right to determine whether or not a person had entered the State for a lawful purpose. In these and in other similar matters, the decision must necessarily be taken by the Plebiscite Administrator.

Mr. Lozano said that the point had not been specifically considered by the Commission, but that in his view, whatever practical arrangements were arrived at, contentious cases would, no doubt, have to be referred to the Plebiscite Administrator for decision.

Item (vii)—The Foreign Minister observed that the suggestion contained in the aide-memoire was not only misleading but positively mischievous. He explained at length the circumstances in which India had been partitioned and affirmed that the Pakistan Government was a no more theocratic and a no less secular State than the Government of India. In any case, he felt that this was an altogether irrelevant consideration, and that a free and impartial plebiscite could only be secured if there were complete freedom of speech and assembly throughout the State. The Foreign Minister, however, agreed that nothing should be done which would tend to disturb law and order. Mr. Lozano replied that the aide-memoire should not be taken to mean that he agreed with the views expressed by the Indian representatives, and that his own observations were limited to the remark "that any political activity which might tend to disturb law and order could not be regarded as legitimate. The same test would apply to freedom of press and speech".

Item (viii)—The Foreign Minister pointed out that the

Pakistan Government's views with regard to this matter were the same as with regard to item (vi), namely, that decisions in such cases could not be left to one of the interested parties, and that all such matters fell within the purview of the Plebiscite Administrator. Mr. Lozano agreed that it was one of the responsibilities of the Plebiscite Administrator to ensure implementation of clause 7 of the Commission's resolution of 5 January 1949, but that the manner in which this should be carried out was a matter for discussion with the Plebiscite Administrator under clause 10 of the resolution.

Item (ix)—Mr. Lozano remarked that what he had said with regard to item (viii) applied equally to item (ix).

AIDE-MEMOIRE No. 2

Item (i)—Mr. Lozano agreed that, as stated in part IIA. 3 of the Commission's resolution of 13 August 1948, "the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission".

Item (ii)—Mr. Lozano confirmed that as he had stated with regard to item (v) of the first aide-memoire, the Commission aimed at that stage to enable the refugees to participate in the plebiscite, but that the question of their permanent rehabilitation in their original homes had not yet been considered.

The Foreign Minister suggested, and Mr. Lozano agreed, that a record note of the meeting should be prepared and after it had been agreed to by Mr. Samper, it should be sent to the secretariat of the United Nations Commission for the Commission's information.

(Signed) H. Samper

Alternative representative for Colombia

(Signed) M. Ayub

Liaison Officer

9 February 1949.

8 *Documents on Kashmir Problem*

2. *Text of the Letter dated 12 February 1949 from the Chairman of the Commission Robert B. Macatee addressed to the Prime Minister of India and to the Minister for Foreign Affairs of Pakistan (UN Document No. S/AC.12/127)*

I have the honour to refer to point E of part I of the Commission's resolution of 13 August 1948, which reads as follows :

"The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations."

The Commission has read with great satisfaction statements by spokesmen both of India and of Pakistan after the establishment of the ceasefire in Kashmir emphasizing the great importance of this event as opening the road towards friendly relations between the two States in an atmosphere of mutual understanding and goodwill.

The Commission attaches every great importance to the rapid establishment of such an atmosphere. During the hostilities in Jammu and Kashmir much was said and done in the heat of the struggle, but the Commission feels that attention should now primarily be directed towards establishment of peaceful and friendly conditions in that State.

The Commission has reason to believe that the Governments of India and Pakistan fully share its view in this respect and it sincerely hopes that they will exercise their influence in the proper quarters so as to bring about the cessation of all propaganda which goes beyond legitimate political activity.

I am writing in the same way to the Foreign Minister of Pakistan and the Prime Minister of India.

(Signed) Robert B. Macatee
Chairman

3. *Text of the Letter dated 17 February 1949 from the Acting Chairman of the Commission Mr. Robert B. Macatee to the Secretary-General, Ministry of External Affairs and Commonwealth Relations, Government of India (UN Document No. S/AC.12/129)*

I have the pleasure to refer to the conversation which Mr. Lozano and I had with you on the afternoon of 15 February. I have brought to the attention of the Commission the point raised by you with respect to a communique issued on 16 January by the Government of Pakistan dealing, in part, with an interpretation of the views of the Commission regarding the meaning of the term "surveillance" as used in its resolution of 13 August 1948, and based, apparently, on oral elucidations offered by the then Chairman.

The Commission has been careful to avoid any possible misunderstandings arising from oral elucidations, and has, therefore, maintained that it is bound only by its official correspondence with the Government of India and the Government of Pakistan and by agreed versions of conversations which appear in the form of memoranda and aide-memoire.

The main concern of the Commission at the time when its resolution of 13 August was under discussion, was focused on the cease-fire and the faithful observance of the truce. The Commission did not at that stage make specific provisions governing part III of its resolution, then undefined. It did, however, take into account the continuing need for surveillance during the period following the signing of the truce agreement. The Commission's intention to extend the surveillance in the territory evacuated by the Pakistan Army to the interval between the signing of the truce agreement and a final settlement of the problem is evidenced in part II A. 3 of its resolution, which states that surveillance will apply "pending a final solution...."

It has been agreed by the Government of India and the

Government of Pakistan, supplementary to part III of the resolution of 13 August 1948, that the final status of the State of Jammu and Kashmir will be determined through the democratic method of a free and impartial plebiscite. Although the Commission has not, as yet, had an opportunity to consider in detail the extent and scope of the term "surveillance", it fully recognizes that the principles relating to the organization and holding of the plebiscite must be given full effect. The Commission therefore attaches great importance to the conditions set forth in points 5, 6 and 7 of its resolution of 5 January, and will use its best endeavours to see that these conditions are respected and guaranteed.

A copy of this letter is being forwarded to the Government of Pakistan for its information.

(Signed) Robert B. Macatee
Acting Chairman

4. Terms of reference for the Investigating Sub-Committee for the western side of Kashmir (UN Document No. S/AC. 12/128)

The United Nations Commission for India and Pakistan

1. Appoints a Sub-Committee consisting of : Mr. Harry Graeffe (Belgium) and Mr. Ward P. Allen (United States) to proceed as soon as practicable to the area of the State of Jammu and Kashmir under the control of the Pakistan High Command for the purposes of studying and investigating the administration of the area, together with the refugee situation;
 2. Instructs this Sub-Committee to complete its investigation within a period of fourteen days and to report the results thereof to the Commission.
- 5. Terms of reference for the Sub-Committee on the Truce Agreement (UN Document No. S/AC. 12/133)*

The task of the Sub-Committee shall be, in conjunction

with the Military Adviser :

1. To meet with military representatives of both Governments.
 2. To participate with them in the preparation of a draft truce agreement to be submitted to the Commission as soon as possible, together with recommendations as to further procedure.
 3. To keep the Commission currently informed of the progress of its work.
6. *Text of the Letter dated 22 February 1949 from the Chairman of the Commission Mr. Huddle addressed to the Secretary-General, Ministry of External Affairs and Commonwealth Relations, Government of India, and to the High Commissioner for Pakistan in India (UN Document No. S/AC. 12/134)*

I have the honour to inform you that the United Nations Commission for India and Pakistan has decided, in order that rapid progress may be made with the elaboration of the truce agreement under part II of the Commission's resolution of 13 August 1948, to set up a Sub-Committee composed of representatives of Colombia and of the United States to work in conjunction with the Commission's Military Adviser. This Sub-Committee will, through the Military Adviser, take steps to meet with military representatives of the Indian and Pakistan Governments to participate with them in the preparation of the truce agreement.

The Commission deems it necessary to continue for some time to hold its meetings in New Delhi, and as the Commission should be able to contact the Sub-Committee at any time, it is considered that the Sub-Committee should likewise meet in New Delhi.

I would be grateful if you would be kind enough to inform your Government of the above.

(Signed) J. Klahr Huddle
Chairman

7. *Text of the Letter dated 18 February 1949 from the Secretary-General, Ministry of External Affairs and Commonwealth Relations, Government of India. Mr. G.S. Bajpai addressed to the Acting Chairman of the Commission (UN Document No. S/AC. 12/130)*

When Mr. Lozano and you called on me on the 15th instant, you very kindly left with me a copy of the "Record note" of a meeting held at the residence of the Foreign Minister, Pakistan, in Karachi, on the 8th February (annex 1). I have shown this to the Prime Minister, who desires me to send you the following comments. The references are to paragraphs as numbered in the "Record note".

Paragraph 3. The Pakistan Minister for Kashmir Affairs wanted an assurance that lack of co-operation from either side would not be regarded as a practical and technical reason for not holding the plebiscite. It is not clear to us how the lack of co-operation from either side could not be a practical obstacle to the holding of the plebiscite. If either party were to put serious obstacles in the way of the plebiscite being conducted, there would seem to be no means at the disposal of the Plebiscite Administrator or the Commission by which a free and fair plebiscite could be held in the face of such obstruction. This matter requires elucidation.

Paragraph 4. Referring to the powers of direction and supervision of the Plebiscite Administrator, Sir Mohammad Zafrulla Khan mentioned the discussions in Paris in November-December 1948, in the course of which he apparently suggested that the Plebiscite Administrator should have powers of direction and supervision over the State forces and police, and over government officials of the revenue, forest, civil supplies and other departments to the extent that this might be necessary to organize and conduct the Plebiscite and to ensure its freedom and impartiality. The Commission had argued that it was unnecessary to do so, as clause B. 3 (b) of the draft proposal vested the Plebiscite Administrator with

all the powers that he considered necessary for organizing and conducting the plebiscite and for ensuring its freedom and impartiality. In our aide-memoire No. 1 (S/1196, annex 4), commenting upon this particular clause of the plebiscite proposals as presented to us in Paris, "the Prime Minister pointed out that all the Plebiscite Administrator could in reason expect was that, for the purpose of organizing and conducting the plebiscite and ensuring its freedom and impartiality, the Government of Jammu and Kashmir should give him such assistance as he might require". We assume that this is still the intention of the Commission and that it is not intended that "the Plebiscite Administrator should have the powers of direction and supervision over the State forces and police, and over government officials of the revenue, forest, civil supplies and other departments to the extent that this was necessary to organize and conduct the plebiscite and to ensure its freedom and impartiality". Such power would definitely involve an infringement of the sovereignty of Jammu and Kashmir State and be tantamount to interference in the State's day-to-day administration. Having agreed to a free and impartial plebiscite, the Government of India and the Government of Jammu and Kashmir may be relied upon to give the Plebiscite Administrator the requisite assistance in ensuring that the plebiscite is free and impartial.

Paragraph 5. The disarming of Azad forces is really a matter of chronology. First, there must be a cease-fire and after that, a truce, as envisaged in parts I and II of the Commission's resolution of the 13th August 1948. After that, the condition precedent to arrangements for the holding of a plebiscite is the creation of conditions in which Kashmir nationals can return to the area now in the occupation of Azad Kashmir forces. So far as non-Muslims are concerned, such a movement will not take place until large-scale disarming of these forces has been carried out. We tried to make this clear to the Commission through Mr. Lozano in the course of our discussions last December, and I have emphasized this point in our recent meetings.

Paragraph 7. Sir Mohammad Zafrulla Khan "could not agree that one of the parties to the dispute, namely, the Maharaja's Government, would have the right to determine whether or not a person had entered the State for a lawful purpose. In these and other similar matters, the decision must necessarily be taken by the Plebiscite Administrator". Mr. Lozano said, in reply, that "contentious cases would, no doubt, have to be referred to the Plebiscite Administrator for decision". As I have pointed out in paragraph 2 above, the only basis on which the plebiscite arrangements can work satisfactorily is that all the parties concerned should act in good faith. It follows that, in disputed cases, there will be discussion between the Plebiscite Administrator and the State authorities and normally an agreed solution will be reached. If there is no agreement, the matter can be referred to the Government of India or its representative so that a recommendation can be made to the Government of Jammu and Kashmir which they will be under an obligation to accept. To give the Plebiscite Administrator authority to over-ride the Jammu and Kashmir Government would hardly be consistent with a position in which, according to the Commission's own resolution, the Administrator derives his authority from the Government of Jammu and Kashmir.

Paragraph 8. We do not wish to get involved in an argument as to whether or not Pakistan is a secular State. What we are anxious to ensure is that appeals to religious or communal fanaticism should not be permitted as a means of influencing votes. That such appeals are likely to be made is clear from the extracts printed in pages 15 to 20 of the "Recent Pakistan propaganda on Kashmir", copies of which have been sent to the Commission. We cannot impress too strongly on the Commission that, unless such appeals are effectively prevented, there will be no free and impartial plebiscite.

Paragraphs 9 and 10. It is not quite clear as to which part of the Security Council's resolution of the 5th January these refer. Presumably some of the matters referred to in paragraph 7 of the resolution are intended. To the extent

that a difference of opinion between the Plebiscite Administrator and the Government of Jammu and Kashmir might have been in the mind of the Pakistan Foreign Minister, our general position is explained in what I have already said in paragraph 4 above with regard to item (vi), which is dealt with in paragraph 7 of the "Record note".

Paragraph 11. I tried to put our point of view to the Commission during our talk on the 14th February and again in my conversation with you and Mr. Lozano on the 15th. We have to examine two things: (a) "Local authorities" and (b) "surveillance". As regards the former, there are not only local officials to consider but also the headquarters organization of the so-called Azad Kashmir Government. When the August 13th resolution was under discussion, we made it clear to the Commission that the Sovereignty of the Government of Jammu and Kashmir State, even over the territory under the control of the "Azad Kashmir Government", could not be called into question, and the Commission accepted this view. The Commission now has to face the constitutional problem of not giving de facto recognition to this "Government" but also the practical problem of ensuring that guarantees of freedom of speech, etc., for which the Government of Jammu and Kashmir and the Government of India would be responsible in the part of the State under our control, do not mean only paper guarantees in "Azad territory" but are enforceable and enforced. This brings one to (b) "surveillance", which if a free and impartial plebiscite is to be taken, can only be interpreted as effective control by the Commission. What the Commission will, we hope, recognize is that, both theoretically and practically, there is a vacuum in the Azad Kashmir territory, since the Azad Kashmir Government is not an authority either legally recognized or legally responsible for the task of internal government or for discharging international obligations. Such a vacuum does not exist in the territory held by us because there are two legally recognized authorities, namely, the Government of Jammu and Kashmir and the Government of India, the former operating in the sphere of internal government and the latter

responsible for the discharge of international obligations. In the Azad territory, this vacuum can only be filled by the Commission.

The foregoing comments have been offered in no spirit of controversy but only to clarify the position of the Government of India. The Commission will, I feel sure, agree that the next phase of its work should not be clouded by any misunderstandings or obscurity of its intentions by India or Pakistan. It is for this reason that I have been asked to state at some length our views on points regarding which doubt may be said to exist. I shall, of course, be available for such discussion as the Commission may desire on one or more of these points.

(Signed) G.S. Bajpai

8. *Text of the Aide-memoire handed by the Chairman of the Commission and Mr. Lozano to the Secretary-General, Ministry of External Affairs and Commonwealth Relations, Government of India, on 25 February 1949 (UN Document No. S/AC. 12/137)*

Point 1

The Government of Pakistan raised the point regarding lack of co-operation in the holding of the plebiscite in connexion with Mr. Lozano's statement to the Prime Minister of India on 20 December 1948, when the question of a solution other than by a plebiscite was brought up by the latter during the discussion of the Commission's proposals of 11 December [S/1196, annex 3]. The Prime Minister was concerned lest the acceptance of specific proposals relating to a plebiscite should close all doors to alternative solutions of the dispute. Mr. Lozano explained that the proposals did not supersede part III of the resolution of 13 August, but were an elaboration of it. They did, however, take priority over the

consideration of alternative methods and every effort had to be made towards putting these proposals into effect. It was in this connexion that Mr. Lozano expressed the view that if the Plebiscite Administrator should find a plebiscite impossible for "technical or practical reasons", he or the Commission would then recommend to the Security Council a solution different from that of a plebiscite and acceptable to the Governments of India and Pakistan [S/1196, annex 4].

It was not intended at that stage to define what might constitute a "technical or practical reason" for not holding a plebiscite. It is true that a lack of co-operation from either side could create obstacles which, in fact, might make the organization and holding of a plebiscite extremely difficult, if not impossible. However, the Commission feels that the principles embodied in the resolution of 5 January are not only binding on both Governments, but are not based on and call for their fullest co-operation. Therefore, the Commission does not envisage a situation in which either side will withhold its co-operation. It would seem that lack of co-operation, should it occur, would be considered not a "practical reason" but a breach of commitments formally undertaken by the Governments of India and Pakistan. In this event, the Plebiscite Administrator would presumably then report to the Security Council, through the Commission, not that the holding of the plebiscite was impossible for "practical or technical reasons", but rather that the lack of co-operation of either of the parties had rendered it impracticable.

Point 2

The Commission has not undertaken any definition of specific powers to be delegated to the Plebiscite Administrator. However, as recorded in the aide-memoire No.1 of the Government of India [S/1196, annex 4], the Commission does not intend that the Plebiscite Administrator "should usurp the functions of the State Government in the field of normal administration and law and order", but it is understood that

he will have full authority to see that any situation which militates against the freedom and impartiality of the plebiscite is rectified. The Commission is grateful for the reassurance of the Government of India that it and the Government of Jammu and Kashmir may be relied upon to give the Plebiscite Administrator the requisite assistance in ensuring that the plebiscite is free and impartial.

Point 3

The observations contained under point 3 of your letter have been noted.

Point 4

In expressing his view that "contentious cases would no doubt have to be referred to the Plebiscite Administrator for decision", Mr. Lozano did not intend to imply infringement of the authority of the Government of Jammu and Kashmir. Since the Plebiscite Administrator is formally appointed by and derives his power from the State of Jammu and Kashmir, it may be found desirable, in formulating the provisions called for in point 10 of the Commission's resolution of 5 January 1949, to clothe him with the requisite powers of final decision in cases of the nature described in the event that such cases have not otherwise been satisfactorily disposed of.

Point 5

With respect to appeals to religious or communal fanaticism as a means of influencing votes, the Commission wishes to repeat that all subjects of the State of Jammu and Kashmir, regardless of caste, creed, or party, shall be safe and free in expressing their views, but that any political activity which might tend to disturb law and order could not be regarded as legitimate.

Point 6

The general position of the Government of India with

regard to this aspect of the problem has been noted.

Point 7

The Commission's letter under signature of Mr. Macatee, the acting Chairman, dated 17 February, covers these points in so far as the Commission at this stage can enter upon them.

9. *Text of the Letter dated 2 March 1949 from the Chairman of the Commission Carlos A. Leguizamón addressed to the Secretary-General, Ministry of External Affairs, Government of India, and to the High Commissioner for Pakistan in India (UN Document No. S/AC. 12/139)*

On behalf of the United Nations Commission for India and Pakistan I have the honour to inform you that the Commission has been gratified to note that since the cease-fire came into effect, the Governments of both India and Pakistan have continued to take action on certain matters on which agreement was reached under Part II of the Commission's resolution of 13 August 1948. It has learned with interest that the Commanders-in-Chief of India and Pakistan met on 15 January 1949 and discussed in detail matters relating to the cease-fire, as well as certain aspects of the truce. Further, the Commission understands that the tribesmen have now withdrawn, that certain contingents of regular forces of both Dominions have been withdrawn, and that steps have been taken to stabilize the cease-fire line.

The Commission considers that the implementation of the truce is the most urgent matter now awaiting action by the two Governments. In the desire to offer such assistance as it may, the Commission invites the Government of India and the Government of Pakistan to send their civil and military representatives to meet with its Truce Sub-Committee and its Military Adviser. The Commission trusts that Monday, 7 March 1949, at 4 p.m. will be a convenient time and the official temporary headquarters of the Commission at Baroda House, New Delhi, a convenient place for its first meetings.

The Commission suggests that, in order to advance the work as quickly as possible and to build upon discussions previously held, the representatives of your Government be prepared to inform the the Sub-Committee of the measures already taken by your Government with respect to the truce agreement and to present for discussion proposals for the further implementation of part II of the Commission's resolution of 13 August 1948.

A similar communication has been sent to the Government of India [Pakistan].

(Signed) Carlos A. Leguamón
Chairman

10. *Text of the Statement by the Pakistan delegation at the meeting of the Truce Sub-Committee held at New Delhi on 9 March 1949 (UN Document No. S/AC. 12/TC.1)*

As a preliminary to giving the Pakistan Government's views as to the basis on which the military clauses of the truce agreement should be formulated, I would like to inform the Sub-Committee of the progress made in respect of cease-fire arrangements.

In accordance with the UNCIP's resolution of 13 August 1948, part I C, the Commander-in-Chief Pakistan met the Commander-in-Chief India at New Delhi on 15 January 1949. At that meeting it was agreed :

- (a) That the cease-fire in Jammu and Kashmir should be advanced from an informal to a formal basis.
- (b) That the following action should be taken in order to further the satisfactory implementation of the cease-fire:
 - (i) The local commanders in the areas Chota-Kazinag, Richmargali and Marol were authorised to make any slight adjustments in their dispositions on which they might mutually agree in order to avoid

minor incidents. If the local commanders did not consider adjustment necessary, or were unable to reach agreement, the present dispositions were to continue.

- (ii) The Pakistan Army required the use of the road Mirpur-Jhangar for the maintenance of their troops, and the Indian Army required the use of the road Poonch-Uri for a similar purpose. It was agreed that the local commanders should confer for the purpose of reaching mutual agreement on a satisfactory method of achieving these two objects.

As a result of the above agreement, meetings of local commanders were arranged for 26 and 28 January at Jhangar and Chakoti respectively. The agreed records of these meetings were sent to the two High Commands for approval. The Commander-in-Chief Pakistan signalled his agreement of the Commander-in-Chief India (vide Pakistan-HQ Signal No. 21134/OPs. Plans, dated 31 January 1949). The approval of the Commander-in-Chief India has not been notified as yet to the Commander-in-Chief Pakistan, and consequently the local commanders' agreements have not been implemented. Another meeting of local commanders was held at Chakoti on 18 February regarding the Gurais front. The agreements reached at this meeting have also not been implemented.

The cease-fire, apart from minor incidents, has been effectively maintained since the 1st of January, 1949.

Part II of the Commission's resolution of 13 August 1948 deals first with Pakistan's obligations and leaves the initiative entirely to Pakistan as to how these obligations should be discharged. It then goes on to set out the obligations devolving on India and states that these are to be discharged in stages to be agreed upon with the Commission. It is therefore obvious that Pakistan should start the ball rolling in this joint meeting by stating the basis on which it is proposed to

discharge her obligations. Before doing this I would stress that the August resolution makes the Pakistan Government, and not the Azad Kashmir authorities, a party to the truce agreement, and therefore responsible that its terms are properly observed on the Azad Kashmir side of the line. It is therefore essential that the Pakistan Government must itself be satisfied that, quite apart from the truce terms themselves, the conditions under which those terms are to be implemented are such as to enable the Pakistan Government effectively to discharge its responsibility for the proper observance of the truce conditions by the Azad Kashmir authorities and forces.

The declared objective of the truce arrangements is to create a military balance between the forces on each side so as to develop a feeling of mutual confidence between those forces themselves and among the displaced persons and refugees—both non-Muslims and Muslims—who will be returning to the State of Jammu and Kashmir during the truce period as a preliminary to the taking of the plebiscite. Before putting forward the basis on which the Pakistan Government proposes to carry out its part of the truce agreement, I would here mention three fundamental necessities. The first is the delimitation of the boundaries between the Indian and the Azad Kashmir-controlled areas; secondly, the immediate lifting of all land mines by the side which sowed them so that the civilian population may move about on lawful occasions without the present risk to life and limb. And thirdly, agreement for the free use of roads throughout both areas for refugee movement, refugee maintenance and for free egress and ingress for all other legitimate purposes. As regards delimitation of boundaries, we would hope that this could be done in general terms during the present series of meetings, and that exact local delimitation could be left to local military commanders on both sides in each of the forward areas to settle with the help of the United Nations observer parties.

To revert to the Pakistan Government's obligations under Part II A of the 13 August resolution, these are firstly to do its best to secure the withdrawal from Azad Kashmir

territory of tribesmen and nationals of Pakistan who had entered the territory for the purpose of fighting; to withdraw all its regular forces from Azad Kashmir territory.

The first of these obligations, namely, the withdrawal of the tribesmen, has been carried out already, in advance of the truce agreement, and was completed by February 15th.

The discharge of the second obligation—namely, withdrawal of the Pakistan regular forces—is dependent upon plans acceptable to the Pakistan Government for synchronization of this withdrawal with that of the bulk of the Indian forces from Jammu and Kashmir State territory. This is provided for in paragraph 10 of Appendix 1 to the Commission's letter of 27 August 1948 to the Pakistan Government [S/1100, annex 26]. These plans for synchronization must be acceptable to the Pakistan Government because they have to convince, in turn, the Azad Kashmir authorities, the tribesmen and the people of Pakistan that the truce conditions are such as to assure in due course a free and impartial plebiscite. In this regard, I would stress that one of the main essentials is that the truce conditions must be such as to give non-Muslim refugees from the Azad Kashmir area full confidence that they can return in safety to that area, and equally give Muslim refugees from the area controlled by the Indian and State Forces confidence as to their return to the latter areas. The fact that the Muslim refugees number nearly half a million as against some forty thousand non-Muslim refugees underlines the importance of this aspect to Pakistan.

This postulates organized and disciplined forces on both sides, strictly controlled by the authorities ultimately responsible for the proper observance of the truce terms, and capable of maintaining law and order in their respective territories. To produce such forces on the Azad Kashmir side, reorganization and training of the Azad Kashmir forces is essential. It will be recalled that at the meeting of the two Commanders-in-Chief on 15 January 1949, they agreed to recommend to

their respective Governments that, as soon as the truce agreement was signed, the Azad Kashmir forces should be relieved in the forward areas by Pakistan regular forces and concentrated in the rear areas behind a minimum screen of regular Pakistan troops on the existing cease-fire line. The basis of this recommendation was the feeling that it was better in the early stages at least of the truce period to have regular troops opposite each other in the forward areas. The Commission's Military Adviser was informed of this recommendation at the time.

The Pakistan Government has considered the recommendations of this meeting and it informed the Commission on 8 February at a meeting in Karachi that it considered the following arrangements essential to enable it to discharge effectively its obligations under the resolutions of the Commission :

1. The relief of the Azad Kashmir forces now in the forward areas by Pakistan regular troops.
2. The temporary withdrawal from the forward area and concentration in the rear areas of Azad Kashmir territory, of all Azad Kashmir forces to enable them to be reorganized and trained, under the supervision of G.H.Q. Pakistan, into a disciplined force of infantry units with the necessary administrative and ancillary units.
3. The relief, on completion of this reorganization and training of the Pakistan regular forces in the forward areas by the Azad Kashmir forces.
4. The withdrawal from Azad Kashmir territory of the Pakistan regular forces as soon as this relief has been completed.
5. Overall operational and administrative control of the reorganized Azad Kashmir forces to continue to rest with G.H.Q. Pakistan, this being the most important safeguard the Pakistan Government

would have that the Azad Kashmir forces would scrupulously observe the truce agreement.

The Commission has also been informed that it is estimated that a period of some three months would be needed for the reorganization and training of the Azad Kashmir forces, but that, in order not to allow this to delay implementation of the truce agreement, the withdrawal of the Pakistan regular forces would be started simultaneously with the relief of the Azad Kashmir forces in the forward areas. The Pakistan Government proposes, subject to satisfactory arrangements for synchronization with the withdrawal of the bulk of the Indian forces on the other side, to reduce the Pakistan regular troops in Azad Kashmir territory to a screen of eight infantry battalions only in the forward area, and to withdraw the remainder, including all the Pakistan artillery, from Azad Kashmir territory altogether as soon as the relief of the Azad Kashmir forces and their concentration in the rear areas have been completed.

Here I would inform the Sub-Committee that at present the Azad Kashmir forces consist of :

- (a) One A.A. battery of eighteen 20 mm. guns; one 25 pounder gun; two 6 pounder A.T. guns ; one Azad mountain battery armed with mortars.
- (b) Eight infantry brigades, numbers 2 and 7 of which consist of three battalions each, number 8 of six battalions, and the remainder of four battalions each, making a total of thirty-two battalions. The strength of an Azad battalion is 650 all ranks.
- (c) Six pioneer battalions employed on roads and only partly armed.
- (d) Four animal transport and one camel company.

We propose to reorganize this force into a small artillery group containing the artillery units I have mentioned, and into eight infantry brigades each of three battalions i.e., a

total of twenty-four battalions as compared with the present thirty-two units. The remaining personnel will be reorganized into administrative and L. of C. units to produce as far as possible an administratively balanced force. I hope it will be clear to the Sub-Committee from this outline that the reorganized Azad Kashmir forces will be extremely weak in artillery, and completely lacking in air support, in ground reconnaissance units and in armour. It will be really an infantry force dependent on infantry weapons only.

The Pakistan Government intends to place these Azad Kashmir forces under a General Officer Commanding appointed by them on the advice of the Commander-in-Chief, Pakistan Army, and that this General Officer Commanding be assisted by the requisite number of senior officers selected by G.H.Q. Pakistan in consultation with the General Officer Commanding Azad Kashmir forces. These arrangements are again necessary safeguards to ensure that the Azad Kashmir forces can be relied upon to observe the truce agreement and fulfil their role of maintaining law and order and of instilling confidence in all elements of the civil population of the Azad Kashmir territory during the truce period.

Thus, for the first, say, three months of the truce period, the military forces in Azad Kashmir territory would be eight Pakistan regular battalions, no Pakistan artillery or armour, and the Azad Kashmir forces in process of reorganization. For the remainder of the truce period the military forces in the Azad Kashmir territory would be the Azad Kashmir force of eight brigades of infantry, with practically no artillery, and no armour or other supporting arms.

The Commission has stated that it considers itself free to hear the views of the Pakistan Government on the way in which the withdrawal of the bulk of the Indian forces should be synchronized with the withdrawal of Pakistan regular troops. In view of this, and of the fact that, as I have stated, the declared objective of the truce agreement is to produce a balanced military situation during the truce, I now propose to

give, in outline, the Pakistan Government's views on this point.

According to Part II, section B of the resolution of 13 August 1948, the Indian withdrawal should start as soon as the Commission notifies the Indian Government that the Pakistan forces are being withdrawn. As I have shown, the Pakistan withdrawal will start and be notified as soon as the belief of the Azad Kashmir forces in the forward areas has started. The Pakistan Government suggests that, by the time the Pakistan regular forces are reduced to a screen of eight battalions, the Indian regular forces should have been reduced to :

- (a) Two infantry brigades each of three battalions in Valley area, that is, Uri-Tithwal, Gurais.
- (b) Two infantry brigades each of three battalions in the Poonch-Naoshera sector.
- (c) One infantry brigade group of three battalions and supporting arms in the Jammu sector.

Other than the normal proportion of artillery and armour with the infantry brigade group in Jammu, all other Indian regular artillery and armour should be withdrawn from Jammu and Kashmir State territory by the end of this first phase of the truce period.

This would give a total of fifteen Indian regular infantry battalions plus supporting arms of one brigade group, plus the six Kashmir State Force brigades (which have a proportion of artillery and armour) as against the eight regular Pakistan battalions in the forward areas and the Azad Kashmir forces under reorganization and training in the rear areas. The Commission may well object that this hardly represents a military balance owing to the great numerical preponderance on the Indian side, especially in supporting arms. The Pakistan Government, however, on the advice of its Commander-in-Chief, is prepared to accept this during this stage of

the truce agreement as an evidence of its belief that the object of both sides is to bring about conditions for a free and impartial plebisbite as soon as possible. The Pakistan Government will, of course, have to persuade its half-million Muslim refugees that they can begin to return with confidence to their homes on the Indian side.

As regards the second stage of the truce period, by the time the reorganized Azad Kashmir forces have taken over the forward areas from the Pakistan regular screen, and the latter has been withdrawn from Azad Kashmir territory, thus completing the Pakistan Government's obligation to withdraw their regular forces in entirety, the Pakistan Government suggest that the final dispositions, for the remainder of the truce period, of the Indian and Kashmir State forces should be:

- (a) In the Valley and Poonch-Naoshera sector : five Kashmir State Force brigades with their proportion of artillery and armour ; and
- (b) In Jammu Province : one Kashmir State Force brigade with its proportion of artillery and armour, and one Indian infantry brigade group.

Here again in this phase there is considerable difference between the military strengths in the Azad Kashmir area and those in the Indian-controlled area, but for the reasons already given the Pakistan Government is prepared to accept this.

The Sub-Committee will have noted that I have not mentioned the Abdulla militia, which we believe to number about 4,000. The Pakistan Government hopes that early steps will be taken by the Indian Government to bring about the disbandment of this irregular force with the same object as the Pakistan Government had in effecting the withdrawal of the tribesmen during the cease-fire period instead of waiting for the truce agreement—viz., the feeling that the presence of such irregular forces is one of the greatest obstacles to the

return of mutual confidence. The Pakistan Government in this hope has not included this militia in giving its views on the basis for synchronization of withdrawals on both sides.

It will be clear, I hope, to the Sub-Committee that the above proposals of the Pakistan Government provide a framework within which, if it is agreed to, the two High Commands can work out together a detailed and synchronized withdrawal programme. I hope it is clear too that all these proposals refer to the period of the truce only and do not cover the plebiscite stage.

(Signed) W.J. Cawthorn
Major-General

11. *Text of the Letter dated 10 March 1949 from the Secretary-General, Ministry of External Affairs and Commonwealth Relations, Government of India Mr. G.S. Bajpal addressed to the Chairman of the Commission (UN Document No. S/AC.12/TC.2)*

Our representatives who attended the meeting of the Truce Sub-Committee of the United Nations Commission for India and Pakistan yesterday have given me a copy of the statement made by the Pakistan delegation. The basic approach of the Pakistan delegation to the truce is so fundamentally opposed to ours and to our understanding of part II of the Commission's resolution of the 13th August that I consider it necessary to explain our position explicitly and at once. In paragraph 6 of the statement of the declared objective of the truce arrangements is described as being the creation of "a military balance between the forces on each side". The proposals regarding (a) the strength, training and control of Azad Kashmir forces during the period of the truce and (b) the synchronization of the withdrawal of Pakistan forces with the forces of the Government of India appear to be founded on this assumption. In the first place, the Government of India have never accepted the claim of Pakistan, much less of the so-called Azad Kashmir Government, which has no legal

status to equality of rights in the military or any other sphere. The presence of Pakistan troops in any part of Jammu and Kashmir State constitutes an act of aggression and a violation of international law. That the withdrawal of Pakistan troops from the State should in any way be conditional upon or connected with the training, by Pakistan officers, and the subsequent retention, in Azad Kashmir territory, of an Azad Kashmir force of twenty-four battalions plus the personnel of eight battalions as administrative and L. of C. units under a General Officer Commanding appointed by the Commander-in-Chief, Pakistan Army, assisted by the requisite number of senior officers selected by G.H.Q. Pakistan under the overall operational and administrative control of Pakistan is a claim which the Government of India cannot consider. Pakistan forces must be withdrawn entirely from Jammu and Kashmir State territory and the disposal of the so-called Azad Kashmir forces during the period of the truce must be so arranged as to prepare the way for the ultimate disbanding and disarming of these forces. Any other arrangement would be a preparation neither for peace nor for a peaceful plebiscite but for the resumption of hostilities. It would also be contrary to the objective stated in paragraph 3 (1) (c) of the Prime Minister's letter dated the 20th August 1948 [S/1100, paragraph 78], and broadly accepted by the Commission, that nothing should be done which would enable the territory evacuated by the Pakistan troops to be consolidated in any way during the period of the truce to the disadvantage of the State. The training and maintenance in this territory of any Azad armed forces at all, and more so, in the strength and under the conditions of command and control proposed by the Pakistan delegation, would be the most effective way of "consolidating" it "to the disadvantage of the State". The Government of India are prepared to discuss with the Commission the question of the formation of a Civil Armed Force for the maintenance of law and order in Azad Kashmir territory, but both the composition and the character of such a force must be adjusted to this primary purpose and not to the creation of "a military balance between the forces on each side."

As regards the synchronization of the withdrawal of Indian and Pakistan forces envisaged in B. 1 of part II of the resolution of the 13th August, I must point out that the understanding of the Government of India has all along been that the withdrawal of their forces will begin only after the tribesmen and Pakistan nationals referred to in A. 2 of part II of the resolution have withdrawn, and also the bulk of the Pakistan forces who, as already stated, have no right to be on Jammu and Kashmir State territory. As I have already informed the Commission, the Government of India are prepared to discuss with the Commission the phasing of the withdrawal of their forces after this condition has been fulfilled, at any time that may be convenient to the Commission. But the fulfilment by the Government of Pakistan of the conditions of withdrawal which I have described will be a condition precedent to the implementation by the Government of India of any arrangement that may be reached between them and the Commission regarding the withdrawal of their own forces as well as the strength of the forces that are to be left behind in the State.

The statement of Pakistan delegates goes on to make suggestions regarding the withdrawal of Indian forces and the strength of such forces that are to be maintained in Jammu and Kashmir State. B. 1 of part II of the resolution of the 13th August 1948 clearly lays down that the withdrawal of the forces of Government of India from the State is to be in stages to be agreed upon with the Commission. In this connexion, I would invite the attention of the Commission to paragraph 4 of the letter of the Prime Minister of India to Mr. Korbel, dated the 20th August 1948 [S/1100, paragraph 78], in which it is stated that "the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State, are matters for settlement between the Commission and the Government of India". The Government of India stand by this arrangement, which was accepted by the Commission in Mr. Korbel's letter to the

Prime Minister, dated the 25th August 1948 [S/1100, paragraph 81]. It follows that the Government of India do not propose to comment upon the proposals made in the Pakistan statement regarding the withdrawal of Indian troops from the Jammu and Kashmir State.

In conclusion, I wish to state that the Government of India are as anxious as the Commission to go forward, as rapidly as possible, with the finalization of a truce agreement. It is quite clear to them, however, that this task will be impossible of accomplishment on the basis of the proposals of the Pakistan delegation discussed in the preceding paragraphs of this letter.

(Signed) G.S. Bajpai

12. Text of the Letter dated 14 March 1949 from the Chairman of the Commission Carlos A. Leguizamón addressed to the Secretary-General, Ministry of External Affairs and Commonwealth Relations, Government of India (UN Document No S/AC.12/153)

The United Nations Commission for India and Pakistan has read with interest your letter of 10 March 1949 (annex 11) in which you state the views of the Government of India with respect to certain proposals contained in the statement presented by the Pakistan delegation during the meeting of the Commission's Truce Sub-Committee on 9 March 1949.

The question of a balance of military forces is one which the Pakistan Government raised in the discussion with the Commission during the consideration of the resolution of 13 August and of the proposals of 11 December 1948 [S/1196, annex 3]. In the course of the conversations last August the Commission explained to the Government of Pakistan that in its view a "military balance" would exist in the State of Jammu and Kashmir during the truce period in the sense and to the extent that the resolution of 13 August did not call for the disarming or disbanding of the Azad Kashmir forces, which the Commission understood to number approximately

thirty-five battalions. The Commission, however, cannot accept the interpretation that "the declared objective of the truce arrangements is described as being the creation of a military balance between the forces on each side." There can be no other objective of the truce arrangements than to establish peaceful and normal conditions throughout the State such as will be conducive to the organization and holding a plebiscite. Similarly, the process of synchronizing the withdrawal of the Pakistan and Indian forces to be arranged between the respective High Commands and the Commission, in effect tends to create a corresponding situation on either side as withdrawal of one and reduction of the other take place, but in no way does this affect the ultimate aims of the resolution of 13 August and the principles embodied in that of 5 January.

With reference to your observations relating to the withdrawal of Pakistan troops from the State, the Commission's resolution of 13 August 1948 does not make their withdrawal conditional upon other developments in the area to be evacuated by them.

The Commission observes that in paragraph 2 of your letter you state that the withdrawal of Indian forces will begin "only after the tribesmen and Pakistan nationals referred to in A. 2 of part II of the resolution have withdrawn and also the bulk of the Pakistan forces." In order to avoid any possible misunderstanding in this connexion the Commission wishes to refer to B. 1 of part II of its resolution of 13 August, under the terms of which the Government of India has agreed to begin the withdrawal of the bulk of its forces from the State in stages to be agreed upon with the Commission when the Commission shall have notified the Government of India that tribesmen and Pakistan nationals referred to in part II A. 2 have withdrawn and that Pakistan forces are being withdrawn from the State.

The Commission is gratified to note the readiness of the Government of India to discuss the question of the formation

of a civil armed force in the Azad Kashmir territory, as well as the question of the phasing of the withdrawal of Indian forces from Kashmir. It is hoped that the Government of India will present its comprehensive views on these and other points relating to the implementation of part II of the resolution of 13 August 1948 during the forthcoming meetings of the Commission and its Truce Sub-Committee.

A copy of your letter and of my present reply is being forwarded to the Pakistan Government.

(Signed) Carlos A. Leguizamon

13. *Text of the Letter dated 21 March 1949 from the Chairman of the Commission Mr. R. Van De Kerchove addressed to the Secretary-General, Ministry of External Affairs and Commonwealth Relations, Government of India, regarding the Pakistan representative in Srinagar (UN Document No. S/AC. 12/156)*

When the Commission establishes its headquarters in Srinagar it will most probably be necessary to have present duly authorized representatives of the Governments of India and Pakistan; and when the Commission, in the near future, goes to Karachi for discussions with the Pakistani Government the Commission will suggest to that Government the appointment of a qualified person to go to Srinagar when requested by the Commission to do so.

I take it that the Pakistani Government will then want to know what will be the status of its representative in Srinagar.

I would assure the Pakistani Government that of course their representative will enjoy ordinary diplomatic privileges, including personal immunity for himself and his necessary staff and the inviolability of his correspondence, right to use cipher in telegrams, etc. I would also be glad to be able to inform the Pakistani Government that the Government of Jammu and Kashmir will make the necessary arrangements

for the security of the Pakistani representative as well as of his staff during their stay in Srinagar and during their travelling to and from that town.

I should be grateful if you would kindly let me know what suggestions you might wish to put forward in this matter.

(Signed) R. Van De Kerchove
Chairman

14. *Text of the Letter dated 22 March 1949 from the Secretary-General of the Ministry of External Affairs and Commonwealth Relations, Government of India, addressed to the Chairman of the Commission Mr. G.S. Bajpai regarding the Pakistan representative in Srinagar (UN Document No. S/AC.12/157)*

Kindly refer to your letter, dated the 21st March. When the idea of associating a representative of Pakistan with the Commission was mentioned to me, I think by Ambassador Huddle, I explained to him orally that it would not be possible for us to agree to have such a representative in Srinagar or anywhere else in the part of Jammu and Kashmir State under our control. The Government of Jammu and Kashmir, whom we have consulted, consider, and they have good reason for doing so, that the establishment of such an officer, with or without a staff in their capital, would merely create a focus for intrigue against them. The Government of India do not feel justified in overruling the Government of Jammu and Kashmir in a matter of this kind. We have not asked, at any time, that a representative of ours should go to the territory held by "Azad Kashmir" and we do not see why we should be asked to extend to Pakistan facilities which we do not expect and for which we have not asked.

(Signed) G.S. Bajpai

15. *Text of the Letter dated 23 March 1949 from the Chairman of the Commission Mr. Kerchové addressed to the Secretary-General, Ministry of External Affairs and Commonwealth Relations, Government of India, regarding Pakistan representation in Srinagar (UN Document No. S/AC.12/158)*

I beg to acknowledge receipt of your letter of 22 March (annex 14) in reply to mine of the previous day (annex 13) on the subject of the status of a Pakistan representative with the United Nations Commission when it moves to Srinagar or to another part of the Jammu and Kashmir State under the control of the Government of India.

Your letter states that the Government of Jammu and Kashmir do not deem it convenient to allow a representative of Pakistan to be with the Commission in their capital as that "would merely create a focus for intrigue against them." The Commission notes that the Government of India do not feel justified in overruling the Government of Jammu and Kashmir in a matter of this kind.

The Commission reserves its position in this connexion but will revert to the object should it decide, for the proper fulfilment of its mission, to go to Srinagar or to any other part of the territory of Jammu and Kashmir.

The Commission hopes that its work will not be impeded by a negative attitude on this matter on the part of the Government of Jammu and Kashmir. If that Government meet with difficulties arising out of the presence of a Pakistan representative, the Commission is sure that they will be able to deal with such difficulties appropriately.

(Signed) R. Van De Kerchové
Chairman

16. *Text of the Letter dated 28 March 1949 from the Secretary-General, Ministry of External Affairs and Commonwealth Relations, Government of India Mr. Bajpai addressed to the Chairman of the Commission (UN Document No. S/AC. 12/166)*

I am desired to forward herewith, for the Commission's consideration, a memorandum embodying the views of the Government of India on the following points:

1. The truce line in the north and north-east of the State of Jammu and Kashmir, beyond Keran, up to which point agreement has already been reached in principle between the representatives of India and Pakistan.
2. Formation of a civil armed force for the maintenance of law and order in Azad Kashmir territory.
3. The withdrawal of Indian forces from Jammu and Kashmir in accordance with the relevant provisions of part II of the Commission's resolution, dated the 13th August 1948.

A map showing the truce line which the Government of India seek to establish is also enclosed.

The Government of India will be happy to send representatives to discuss the memorandum with the Commission at the Commission's convenience.

(Signed) G.S. Bajpai

MEMORANDUM

As a result of discussions between representatives of the Government of India on the one hand and the United Nations Commission for India and Pakistan and its Truce Subcommittee on the other, the Government of India have been invited to formulate their views on three points:

1. The truce line in the north and north-east of the State of Jammu and Kashmir, beyond Keran, up to

which point agreement has already been reached in principle between the Representatives of India and Pakistan.

2. Formation of a civil armed force for the maintenance of law and order in Azad Kashmir territory.
3. The withdrawal of Indian forces from Jammu and Kashmir in accordance with the relevant provisions of part II of the Commission's resolution dated the 13th August 1948.

The Government of India's views on these three points are set out below seriatim:

I. TRUCE LINE

A map indicating the line which the Government of India wish to see established is attached. It will be observed that no claim is made to the inclusion of Gilgit District within the Indian part of the line. What is claimed for inclusion within the Indian line is territory which strictly answers the description given in the Prime Minister's letter, dated the 20th August 1948, to Mr. Korbelt [S/1100, paragraph 80]; it is territory over which the authority of the Government of Jammu and Kashmir "has not been challenged or disturbed, except by roving bands of hostiles, or in some places like Skardu which have been occupied by irregulars or Pakistani troops." After Pakistani troops and irregulars have withdrawn from the region referred to, the responsibility for the administration of these areas will revert to the Government of Jammu and Kashmir and that for defence to the Government of India. It is not the intention to garrison these sparsely populated portions of the State of Jammu and Kashmir extensively. All that the Government of India propose to do is to maintain garrisons at selected points for the dual purpose of preventing the incursion of tribesmen, who obey no authority, and to guard the main trade routes from the State into Central Asia.

2. FORMATION OF A CIVIL ARMED FORCE

The Pakistan representatives who appeared before the Truce Sub-committee had made certain recommendations in a memorandum, dated the 9th March (annex 10), which, as has already been pointed out to the Commission, were designed to achieve the objective of a "military balance between the forces on each side." In the Secretary-General's letter to the Chairman, dated the 10th March 1949 (annex 11), it was explained that the proposals in the memorandum regarding the strength, training and control of Azad Kashmir forces during the period of the truce would be (1) a preparation neither for peace nor for a peaceful plebiscite but for the resumption of hostilities and (2) contrary to the objective stated in paragraph 3 (1) (c) of the Prime Minister's letter, dated the 20th August 1948 [S/1100, paragraph 78], and broadly accepted by the Commission, that nothing should be done which would enable the territory evacuated by the Pakistan troops to be consolidated in any way during the period of the truce to the disadvantage of the State. The Government of India adhere to this view and reaffirm their request that action should be taken to disband and disarm the so-called Azad Kashmir forces. So long as these forces are not disbanded and disarmed, so long will it be necessary for the Government of India, in the interests of the security of the rest of the State of Jammu and Kashmir under their control, to maintain a larger force than would otherwise be necessary. A force of 32 battalions, armed but without discipline, and inspired by fanaticism, would obviously be a menace to the security of a territory which it covets and against whose Government its fanaticism is directed. That discipline would make this force militarily more manageable does not imply that it would also eliminate the fanaticism of its members. Indeed, the disciplining and reorganization proposed in the Pakistan memorandum would make this force a greater menace to the security of the part of the State. Moreover, as was explained to Mr. Lozano during his visit to New Delhi in December 1948, so long as a military force of this character is maintained in the so-called Azad Kashmir territory, there

will be no security for those inhabitants who do not fully subscribe to or share the political views of pro-Pakistan elements and, therefore, no inducement to the re-entry into this territory of State citizens of this class who had left it on account of the present conflict. Disbandment and disarming of these forces is, therefore, essential both to the fulfilment, by the Government of India, of their obligations under B. 1 and 2 of part II of the Commission's resolution of the 13th August, and the creation, in the territory in question, of conditions which would ensure a free and impartial plebiscite.

For the maintenance of law and order in the so-called Azad Kashmir territory, a civil armed force is to be created. Before the outbreak of hostilities in the State, the total strength of the police force maintained in this territory for the preservation of law and order was approximately 560 men, of whom 256 were armed. The Government of India realize that the physical and psychological conditions created by the conflict of the last 18 months necessitate a substantial augmentation of these numbers. They suggest, therefore, that a force of 2,500 persons, of whom one-half may be armed, be formed. This should be more than sufficient for the maintenance of law and order, which must be the sole purpose of such a force.

Some of the considerations which have been urged in favour of disbanding and disarming the so-called Azad Kashmir forces equally govern, in the opinion of the Government of India, the composition of the armed police force and its command. If the force is composed of, or officered by, followers of Azad Kashmir alone, the fear of insecurity amongst persons, both Muslims and non-Muslims, who do not belong to this category, whether they are already resident in this territory or are entitled to return to it, will persist. It is, therefore, suggested, that, to the extent of half its numbers, the force should be composed of nationals (Muslim and non-Muslim) of Jammu and Kashmir State who are or were normally resident in this area, but who do not follow the political creed of Azad Kashmir. The higher officers in

command of this force should be neutrals and appointed by the Commission.

3. WITHDRAWAL OF INDIAN FORCES

Part II, section B of the Commission's resolution of the 13th August 1948 recommended:

"1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in part II, A. 2 of the resolution have been withdrawn..., and further that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission.

"2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire, those forces of its Army which, in agreement with the Commission, are considered necessary to assist local authorities in the observance of law and order..."

The Government of India accepted the resolution of the 13th August 1948, on the basis of clarifications furnished by the Commission which are explained in the Prime Minister's letter to the then Chairman of the Commission, dated the 20th August 1948. The portions of the Prime Minister's letter which are relevant to the part of the resolution quoted are paragraph 3, sub-paragraph 2, and the second sub-paragraph of paragraph 4. The Government of India reaffirm their adherence to the position set out in these communications.

The memorandum presented by the Pakistan representatives to the Truce Sub-committee of the Commission mentions three months as the period during which the withdrawal of Pakistan forces should be completed. This period

seems to have been suggested with regard to the need for making suitable arrangements, inter alia, for the maintenance of law and order. Although, as explained in paragraph 2 of this memorandum, the Government of India are unable to agree with certain basic assumptions and with proposals regarding the strength and training of the force needed to maintain law and order made in the Pakistan memorandum, they are willing to accept the period of three months for the completion of the withdrawal of Pakistan forces and for the creation of a civil armed force which will maintain law and order in the so-called Azad Kashmir territory.

(At the request of the Government of India, the schedule of the withdrawal of troops is not reproduced here.)

The fulfilment of the foregoing programme of withdrawal will be contingent upon:

- (i) The complete withdrawal of Pakistan forces including ancillary forces and arms, equipment and stores.
- (ii) The disbanding and disarming of the so-called Azad Kashmir forces and the creation of the Civil Armed Force mentioned in paragraph 2 of this memorandum.

The phasing of the withdrawal of Pakistan forces has not been discussed in this memorandum. The Government of India will be prepared to instruct their representatives to discuss this matter with the Commission, its Truce Subcommittee, and/or Pakistan representatives, if desired. The Commission will appreciate that, so far as their own programme of withdrawal is concerned, the Government of India are not willing to disclose it to the Government of Pakistan until a satisfactory agreement has been reached regarding the withdrawal of Pakistan forces and the replacement of the so-called Azad Kashmir forces by a civil armed force.

This memorandum is limited to a description, in broad

outline, of the views of the Government of India on the three points with which it deals, namely:

1. The truce line;
2. The formation of a civil armed force for the maintenance of law and order in "Azad Kashmir" territory;
3. The withdrawal of Indian forces from Jammu and Kashmir. The Government of India will be happy to depute representatives to discuss with the Commission the contents of the memorandum and to elucidate any parts of it that may need clarification or elaboration.

17. *Text of the Letters dated 15 April 1949 from the Chairman of the Commission Mr. Lozano addressed to the Minister for Kashmir Affairs, Government of Pakistan, and to the Secretary-General, Ministry of External Affairs, Government of India, annexing the proposals on the implementation of part II of the Commission's resolution of 13 August 1948 (UN Document No. S/AC.12/177)*

The Commission has considered the developments which have taken place since it last addressed itself formally to both Governments with regard to the implementation of part II of its resolution of 13 August 1948. It has considered the viewpoints of both Governments and it has been studying the steps which have been and might be taken in connexion with the further implementation of the resolution of the Commission.

In the light of all the above factors, and in order to facilitate the restoration of peace in the State of Jammu and Kashmir and the holding of an early plebiscite the Commission has decided to urge formally upon both Governments agreement upon the proposals contained in the enclosed documents.

The Commission considers that these proposals represent an adjustment of viewpoints within the framework of and consistent with the spirit of the commitments already entered

into. It is also convinced that in accepting these proposals, both Government will have taken a further important forward step towards the attainment of the objective which animates both of them, as well as the Commission—the prompt and peaceful solution of the problem of the State of Jammu and Kashmir through a free and impartial plebiscite.

The Commission requests that the Government of Pakistan signify its agreement on these proposals as soon as possible, and it hopes to be in possession of the agreement within three days, so that the Commission may then determine its future course of action.

(Signed) Alfredo Lozano
Chairman

The Honourable Mr. M.A. Gurmani
Minister for Kashmir Affairs
Government of Pakistan
Rawalpindi

The Commission has considered developments which have taken place since it last addressed itself formally to both Governments with regard to the implementation of part II of its resolution of 13 August 1948. It has considered the viewpoints of both Governments and it has been studying the steps which have been and might be taken in connexion with the further implementation of the resolution of the Commission.

In the light of all the above factors, and in order to facilitate the restoration of peace in the State of Jammu and Kashmir and the holding of an early plebiscite, the Commission has decided to urge formally upon both Governments agreement upon the proposals contained in the enclosed documents.

The Commission considers that these proposals represent an adjustment of viewpoints within the framework of and consistent with the spirit of the commitments already entered into. It is also convinced that in accepting these proposals, both Governments will have taken a further important forward

step towards the attainment of the objective which animates both of them, as well as the Commission—the prompt and peaceful solution of the problem of the State of Jammu and Kashmir through a free and impartial plebiscite.

With reference to point B. 1 of the enclosed proposals, the Commission submits the following plan for the withdrawal of the bulk of the Indian troops from the territory of the State of Jammu and Kashmir:

(At the request of the Government of India the schedule for the withdrawal of troops is not reproduced here.)

The Commission requests that the Government of India signify its agreement on these proposals as soon as possible, and it hopes to be in possession of the agreement within three days, so that the Commission may then determine its future course of action.

(Signed) Alfredo Lozano
Chairman

Sir Girja Shankar Bajpai
Secretary-General
Ministry of External Affairs
Government of India
New Delhi

APPENDIX

Proposals presented to the Governments of India and Pakistan on the implementation of part II of the Commission's resolution of 13 August 1948.

The Government of Pakistan agrees with the Commission that:

A. 1. The Pakistan troops will immediately begin to withdraw from the territory of the State of Jammu and Kashmir as follows:

(a) During the first three weeks twenty infantry battalions, plus the corresponding proportion of artillery and supporting units will be withdrawn.

(b) During the following fortnight the remainder of the Pakistan troops will be withdrawn with the exception of eight infantry battalions.

(c) By the end of the seventh week, the total of the Pakistan troops, including their ammunition, stores and material, will have left the territory of the State.

2. The Government of Pakistan having secured the withdrawal from the territory of the State of Jammu and Kashmir of the tribesmen, shall secure the withdrawal of any of the Pakistan nationals still in the territory of the State and not normally resident therein, who have entered the State for the purpose of fighting.

3. The territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission and without prejudice to the sovereignty of the State.

The Government of India agrees with the Commission that:

B. 1. As soon as the Commission shall have notified the Government of India that the tribesmen and the Pakistan nationals not normally resident in Jammu and Kashmir territory, who have entered the State for the purpose of fighting, have withdrawn, and that the Pakistan troops are being withdrawn from the State of Jammu and Kashmir, the Indian Army will begin to withdraw the bulk of its forces in stages submitted to the Indian Government by the Commission. The schedule of the withdrawal of Indian forces will be published by the Commission immediately after the acceptance of these proposals by both Governments.

C. 1. The operations mentioned in the above paragraphs A and B will be carried out under the surveillance of the Commission's Military Adviser.

D. 1. A cease-fire line, based upon the factual positions occupied by the respective armies on 1 January 1949, has been

fixed by the Commission, and is traced in yellow on the map annexed. Between Chakothi and Tithwal and from Chorwan to the north of Dras, the line shall be demarcated as soon as possible by the Military Adviser of the Commission. The cease-fire line shall eliminate all no-man's land and shall be demarcated on the ground by agreement between the respective local Commanders, assisted by the Commission's Military Observers. That line shall, to the greatest extent possible, follow easily recognizable features on the ground.

2. The Commission authorizes its Military Adviser to decide, without appeal, local adjustments of the cease-fire line.

3. The Commission will have observers stationed where it deems necessary. In the sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north, observers will be stationed who, in the event that the defence of this territory becomes necessary, will so advise the Commission. The Commission, in this case, or at the request of the Government of India, may agree that the Government of India post garrisons at specified points of this area.

E. 1. All land mines will be immediately limited by the side which sowed them.

2. There will be free use of the roads throughout the State for refugee movements, refugee maintenance and for all other non-military purposes. There will also be free use of all the waterways for all non-military purposes.

3. All prisoners of war will be released within one month.

4. All emergency laws promulgated as a consequence of hostilities will be repealed within one month, and all political prisoners arrested or prosecuted under these laws, whether condemned or not, will be released during the same period.

F. 1. These provisions are without prejudice to the

territorial integrity and the sovereignty of the State of Jammu and Kashmir.

2. These provisions do not affect in any way the functions and powers of the Plebiscite Administrator.

18. *Text of the Letter dated 15 April 1949 from the Minister for Kashmir Affairs, Government of Pakistan Mr. M.A. Gurmiani addressed to the Vice-Chairman of the Commission requesting elucidation of the proposals of 15 April 1949 (UN Document No. S/AC. 12/179)*

I have the honour to refer to Mr. Lozano's letter dated 15th April 1949 (annex 17) enclosing the Commission's proposals for the implementation of part II of the Commission's resolution of 13th August 1948, which you very kindly handed over to me this morning.

The Commission has expressed the hope that the Government of Pakistan would be able to signify their agreement to these proposals within three days. As I explained to you this morning I am going to Karachi to meet the Honorable the Prime Minister before he leaves for London on 18th April. I hope to be able to apprise the Commission of the views of the Pakistan Government on the Commission's proposals on my return to Rawalpindi on 19th April.

On a preliminary study of the Commission's proposals, I feel that I should request elucidation of the points mentioned below:

- (i) The implications of the phrase "without prejudice to the sovereignty of the State" used in clauses A.3 and F.1.
- (ii) To enable the Pakistan Government I submit their views, as envisaged in the Commission's letter dated 3rd September 1948 to the Foreign Minister of Pakistan, when does the Commission propose to give the Pakistan Government:

- (a) Its proposed schedule for the withdrawal of the bulk of the Indian forces ; and
 - (b) Information regarding the Indian forces which, under part II, clause B. 2 of the Commission's resolution of 13 August 1948, will be allowed to remain in the State for the purpose of assisting the local authorities in the observance of law and order?
- (iii) Am I right in presuming that :
- (a) The withdrawal of the bulk of the Indian troops will be completed within the same period as is proposed for the withdrawal of the Pakistan troops; and
 - (b) The synchronization of the withdrawal of the bulk of the Indian troops with the withdrawal of the Pakistan troops will be arranged between the Commission and the two High Commands as provided in paragraph 10 of the memorandum enclosed with the Commission's letter dated 27th August 1948 to the Foreign Minister of Pakistan [S/1100, annex 27]?
- (iv) Would the Commission kindly confirm that :
- (a) The cease-fire line between Chakothi and Tithwal, and from Chorwan to the north of Dras referred to in clause D. 1, will be demarcated by the Military Adviser of the Commission on the basis of the factual positions occupied by the respective forces on 1 January 1949 ; and
 - (b) Local adjustments of the cease-fire line referred to in clause D. 2 will be of minor character and will be made for Military considerations only?
- (v) (a) What are the limits of area described in clause D. 3 as the "sparsely populated and mountainous region of the territory of Jammu Kashmir in the north"?

- (b) What contingency has the Commission in mind which might necessitate "the defence" of the territory referred to in clause D. 3?
 - (c) It is the intention of the Commission that posting of Indian garrisons at specified points will be permitted only when the Commission is satisfied that by no other means can the defence of the territory referred to in clause D. 3 be provided for?
 - (d) Will the local authorities and the Pakistan Government be apprised of the situation and their agreement obtained before any action is taken under clause D. 3?
- (vi) Will regard to clause B. 2, am I correct in assuming that:
- (a) The residents of the State shall have full freedom of entry and exit, and freedom of movement throughout the State; and
 - (b) Pakistan nationals shall be free to enter the State for a lawful purpose, and shall have freedom of movement throughout the State?

I have postponed my departure for Karachi to 3 p.m. tomorrow in order to be able to obtain the Commission's elucidations of the points mentioned above, as these would greatly assist the Government of Pakistan in understanding the Commission's proposals. I shall be most grateful if you could kindly let me have a reply before I leave for Karachi.

(Signed) M.A. Gurmani

His Excellency Minister Robert Macatee
Vice-Chairman
United Nations Commission
for India and Pakistan
Rawalpindi

19. *Text of the Letter dated 16 April 1949 from the Vice-Chairman of the Commission Mr. R. Macatee addressed to the Minister for Kashmir Affairs, Government of Pakistan, elucidating the proposals of 15 April 1949 (UN Document No. S/AC.12/180)*

I have the honour to acknowledge receipt of your Excellency's letter of 15 April 1949 addressed to me in the absence of the Chairman (annex 18). Having discussed your letter with the other member of the Commission at present in Rawalpindi, I take pleasure in setting forth below, seriatim, replies to the questions raised:

- (i) By this phrase, the Commission means that the administration of the area by the local authorities under the surveillance of the Commission would not bring into question the sovereignty of the State of Jammu and Kashmir as a whole. It has consistently been the view of the Commission, as well as the Security Council, that pending the determination of the will of the people as regards the accession of the State to India or Pakistan, neither body will recognize any new sovereignty in the State. To do so would constitute a prejudgment of the will of the people.
- (ii) (a) and (b)—The Commission has already received the views of the Government of Pakistan on this matter under date of March 9, 1949, and has taken due account of them. The Commission will not find itself in a position to disclose the schedule of withdrawal of the bulk of Indian troops until agreement thereon has been reached with the Government of India and both Governments have indicated their agreement to the other provisions of the proposals.
- (iii) (a)—No presumption can be made with regard to this point until agreement has been reached between

the Government of India and the Commission. In the preparation of the proposed schedules of withdrawal, the Commission has been guided primarily by information supplied by its Military Adviser as to the time required for such withdrawals and, taking into account the problems created by the extent of the area, the nature of its terrain and the transportation facilities, the Commission has not found it feasible to propose that the completion of the withdrawal of the bulk of Indian troops should take place at as early a date as that of the Pakistan troops.

- (iii) (b)—As stated in paragraph 10 of appendix 1 to the letter of the Commission to the Government of Pakistan of August 1948, synchronization of the withdrawal of the armed forces of the two Governments will be arranged between the respective High Commands and the Commission.
- (iv) (a) and (b)—I understand that the Military Adviser will base his determinations upon military and factual considerations, other considerations being beyond his competence.
- (v) (a)—By the phrase "sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north" the Commission means the area of the State north of the positions presently occupied by the Indian Army with the exception of Gilgit Subdivision and Agency.
- (v) (b)—The Commission cannot forecast the contingencies which might require the defence of this area, and is prepared to rely upon the information of its observers to be stationed there and the advice of its Military Adviser in this matter.
- (v) (c)—I understand the intention of the Commission to be that it may agree to the stationing of Indian troops at specified points should it be convinced, in the light of all the circumstances, that it is necessary for the defence of that territory.

- (v) (d) — Action to be taken under clause D. 3 would be a matter for agreement between the Commission and the Government of India. Any case which might arise would have to be dealt with in the light of the then existing circumstances.
- (vi) (a) and (b)— It is my understanding that the sole intention of the Commission by clause E. 2 was to abolish, so far as possible, any artificial conditions which might otherwise be occasioned by the presence of the demarcation line established under clause C without prejudice, of course, to paragraph 7 of the Commission's resolution of 5 January 1949.

With reference to points (i) and (iii) it may be added that schedule of withdrawals of the forces of both Governments and the number of Indian troops to be left within the State is, of course, subject to modification in any future agreement which may be reached regarding the reorganization and reduction of the forces to remain in the area to be evacuated by the Pakistan troops.

(Signed) R. Macatee
Vice-Chairman

20. Text of the Letter dated 17 April 1949 from the Secretary-General, Ministry of External Affairs, Government of India, Mr. G.S. Bajpal addressed to the Chairman of the Commission regarding the proposals of 15 April 1949 (UN Document No. S/AC.12/185)

The Government of India have asked me to convey the following views on:

- (a) Your letter dated the 15th April 1949, and
- (b) The proposals of the Commission on the implementation of part II of its resolution of 13th August 1948 which you left with me on the 15th.

Neither in the letter nor in the proposals is there any reference to the disbandment and disarming of the so-called

"Azad Kashmir" forces, to which, as the Government of India have repeatedly informed you, they attach the utmost importance. The omission, if I understood you correctly, is due to the fact that, in part II of the Commission's resolution of the 13th August, which the "truce agreement" is designed to implement, there is no reference to the disbanding and disarming of these forces. Since the disbanding and disarming of these forces has been repeatedly challenged, the Government of India would have preferred this matter to be dealt with in the "truce agreement". In any case, they desire that the assurance regarding the disbanding and disarming of these forces contained in the aide-memoire of the conversation of 22nd December 1948 between the Prime Minister on the one hand and the Ambassador Colban and you on the other [S/1196, annex 4, aide-memoire 2] should be made clear beyond any doubt. Discussions to implement this assurance should begin as soon as possible and decisions should be taken not later than the completion of the withdrawal of Pakistan troops (seven weeks) mentioned in section A of the Commission's proposals communicated to the Government of India on the 15th.

In the Prime Minister's letter of acceptance of the Commission's resolution of the 13th August, it was stated that the strength of the Indian forces maintained in Kashmir should be conditioned by the over-riding factor of the effective insurance of the security of the State against external aggression. The presence, in the so-called "Azad Kashmir" territory, of 32 battalions of "Azad Kashmir" forces, constitutes a factor which the Government of India must take into account in determining the phasing of the withdrawal of their own forces. During the period of withdrawal of Pakistan troops (seven weeks) mentioned in part A of the Commission's latest proposals, the Government of India cannot, with due regard to the security of the State, the maintenance of law and order and the sealing off of the border against unwarranted infiltration, withdraw more than 12 battalions. Further withdrawals will depend upon and will have to be regulated according to

the actual disbandment and disarming of the "Azad Kashmir" forces.

As regards section A of the Commission's proposals—withdrawal of Pakistan forces—the Government of India assume that all irregular forces are included in the programme of withdrawal; also that no arms, equipment or military stores will be left behind by the Pakistan troops.

Section B has already been dealt with of paragraph 3 of this letter. The Government of India will have no objection to the publication by the Commission of the schedule of withdrawal of Indian forces that may be agreed upon between them and the Commission, but the programme of withdrawal of Pakistan forces should be published at the same time.

The Government of India agrees to section C.

Regarding paragraphs 1 and 2 of section D, the Government of India agree to the procedure outlined in these proposals, except as regards the territory from Chorwan to the north of Dras, which, in the opinion of the Government of India, forms part of the sparsely populated and mountainous region referred to in the Prime Minister's letter of 20th August to Mr. Korbel [S/1100, paragraph 80].

As for section D, paragraph 3, although Pakistan forces, both regular and irregular, may be withdrawn from the sparsely populated and mountainous areas in the north, a large number of local population, which Pakistan has armed, will remain and will constitute a threat and a menace both to the trade with Central Asia of the Jammu and Kashmir State and to the security of the valley of Kashmir. The Government of India, therefore, reaffirm their request that they be allowed to maintain garrisons at the strategic points mentioned in the memorandum which accompanied my letter No. 248-PASG/49, dated the 13th April 1949. As stated in that letter, the question to the administration of this area can be discussed separately.

The Government of India agree to paragraphs 1 and 3 of section E. As regards paragraph 2, they cannot agree to the unrestricted use of roads and waterways in the State of Jammu and Kashmir for refugee movement and for all other non-military purposes. Such freedom will make it impossible to check the infiltration into the State of persons who have no right to be there and will greatly aggravate the administrative difficulties which confront both the State and the military authorities on account of the infiltration which is already in progress and which, considering the long border between the territory under the control of the Government of India and that of Pakistan, it is impossible effectively to control. I may point out that in part II of the Commission's resolution there is no reference to the subject-matter of this proposal of the Commission. The freedom of return to the State of persons who have left it on account of the disturbances is referred to in paragraph 6(a) of the Commission's resolution of 5th January 1949, only, and can be discussed only as part of the arrangements connected with the plebiscite. On purely humanitarian grounds, however, the Government of India are prepared to discuss arrangements for the movement of food convoys by both India and Pakistan under the supervision of the International Red Cross.

Regarding paragraph 4 of section E, it is not clear under which provision of the resolution of the 13th August this proposal has been made. This matter falls under paragraph 7 of the Commission's resolution of the 5th January 1949, and cannot be regarded by the Government of India as legitimately connected with the truce agreement now proposed.

The Government of India agree to paragraphs 1 and 2 of section F.

(Signed) G.S. Bajpai
Secretary General

21. *Text of the truce terms transmitted to the Governments of India and Pakistan by the Commission (UN Document No. S/AC. 12/195)*

I. CEASE-FIRE LINE

A. The cease-fire line will be the line fixed by the Commission and, except as noted below, traced in yellow on the map annexed, and based upon the factual positions occupied on 1 January 1949 by the forces under the control of the Indian and Pakistan High Commands. Based also upon the same factual considerations, the line between Chakothi and Tithwal and from Chorwan to the north of Dras, shall be demarcated as soon as possible by the Military Adviser of the Commission. The cease-fire line shall eliminate all no-man's lands and shall be demarcated on the ground by agreement between the respective local Commanders, assisted by the Commission's Military Observers. The line shall, to the greatest extent possible, follow easily recognizable features on the ground.

B. The Commission's Military Adviser shall decide, without appeal, local adjustments of the cease-fire line in cases where no agreement is reached between the local Commanders.

C. The Commission will have Observers stationed where it deems necessary throughout the State of Jammu and Kashmir.

D. Observers will advise the Commission and/or the Plebiscite Administrator regarding developments in the sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north. Without prejudice to the provisions of point 8 of the resolution of 5 January 1949, should the Commission and/or the Plebiscite Administrator conclude upon advice from the Observers, or upon reports from the Government of India, that it is necessary for the defence of the area, the Commission and/or the Plebiscite Administrator may request the Government of India to post garrisons at specified points.

II. WITHDRAWAL OF TROOPS

A. The Government of Pakistan agrees:

1. To withdraw its troops from the territory of the State of Jammu and Kashmir in seven weeks as follows:

(a) During the first three weeks twenty infantry battalions, plus the corresponding proportion of artillery and supporting units.

(b) During the following fortnight the remainder of the Pakistan troops, with the exception of eight infantry battalions.

(c) By the end of the seventh week, all Pakistan troops, including their ammunition, stores and material, will have left the territory of the State.

2. That, having secured the withdrawal of the tribesmen from the territory of the State of Jammu and Kashmir, it shall secure the withdrawal of Pakistan nationals still in the territory of the State and not normally resident therein, who have entered the State for the purpose of fighting.

B. The Government of India agrees:

1. To withdraw the bulk of its forces from the State of Jammu and Kashmir in stages submitted by the Commission for the agreement of the Government of India. The withdrawal will begin as soon as the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals, not normally resident in Jammu and Kashmir territory who have entered the State for the purpose of fighting, have withdrawn, and that the Pakistan troops are being withdrawn from the State of Jammu and Kashmir.

2. That the schedule of the withdrawal of Indian forces will be made public by the Commission with the schedule of the withdrawal of Pakistan forces immediately after the acceptance of these terms by both Governments.

C. The operations mentioned in the above paragraphs A and B will be carried out under the surveillance of the Commission through its Military Adviser.

III. GENERAL PROVISIONS

A. The territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

B. Immediately upon the acceptance of these terms, the Commission would enter into consultations with the Government of India regarding the disposal of the Indian and State armed forces, and with the local authorities regarding the disposal of the armed forces in the territory to be evacuated by Pakistan troops, with a view to initiating implementation of point 4(a) and (b) of the Commission's resolution of 5 January 1949.

C. If, before expiration of the seven weeks contemplated in point II. A., decisions are reached in the consultations for the initial implementation referred to in III. B. above, the schedule of withdrawal of the Pakistan Army, as provided for in II. A. above, may be extended to three months, in order to facilitate the implementation of decisions relating to point 4 (b) of the Commission's resolution of 5 January 1949.

D. All prisoners of war will be released within one month.

E. The land mines to be immediately lifted by the side which sows them.

F. It will be made publicly known throughout the State of Jammu and Kashmir that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.

G. These terms are without prejudice to the territorial integrity and the sovereignty of the State of Jammu and Kashmir.

H. These terms do not prejudice the functions and

powers of the Plebiscite Administrator.

I. These terms will become effective and will be published by the Commission immediately upon their acceptance by both Governments.

22. *Text of the Letter dated 28 April 1949 from the Chairman of the Commission Mr. Lozano addressed to the Acting Minister for External Affairs, Government of India, regarding the truce terms (UN Document No. S/AC. 12/193)*

I have the honour to acknowledge the receipt of your Government's reply to the Commission's proposals of 15 April 1949 regarding the implementation of part II of the resolution of 13 August 1948.

The Commission has given serious study to the replies of the Government of India and the Government of Pakistan and has formulated truce terms which I have the honour to transmit to Your Excellency herewith. The terms now submitted to your Government endeavour to reconcile so far as possible the views of both Governments with respect to the present situation and adhere to the framework of the resolution of 13 August 1948.

The Commission considers it essential that the Governments of India and Pakistan agree on terms which will permit the implementation of the provisions of the truce without further delay, and cannot but express to Your Excellency the urgency which it attaches to withdrawal of armed forces from the State of Jammu and Kashmir. The Commission does not believe that fruitful results would be obtained from further discussions. It is in this spirit that the Commission requests your Government's unreserved acceptance of the enclosed terms.

To aid your Government's consideration of certain points of the truce terms, the Commission sets forth below the following observations:

- (a) The Government of India will understand that the Commission cannot deal at this stage with the question of disbanding and disarming the Azad Kashmir forces since it does not fall within the purview of part II of the resolution of 13 August. Nevertheless the Commission appreciates the significance of the question and is anxious to consider it without delay. While the Commission cannot share the view of the Government of India that a reduction of its forces beyond the strength mentioned in your letter of 17 April 1949 must depend upon the actual disbanding and disarming of the Azad Kashmir forces, it is convinced that an early study of the matter would hasten the preparations for the plebiscite. In an effort to meet your Government's point of view, the Commission has provided for consultations on the disposal of forces in the State, under point 4(a) and (b) of the resolution of 5 January 1949, by advancing the consideration of this point to the moment at which the Governments of India and Pakistan have signified their acceptance of the enclosed terms. Section III B contemplates decisions on the question of the Azad Kashmir forces at an early stage in the implementation of the truce.
- (b) The Government of India has requested that it be allowed to post and maintain garrisons at the strategic points mentioned in its memorandum of 13 April 1949 with respect to the sparsely populated and mountainous region to the north. The Commission believes that to achieve the purposes of the truce, it is essential to restrict the field of military activities as far as possible. Furthermore, the Commission cannot agree to any measures which it fears may disturb conditions in any part of the State and thus be detrimental to the achievement of the common objective of an early plebiscite. Nevertheless, in an effort to meet the position of your Government in this matter, the enclosed terms

provide that, without prejudice to the provisions of point 8 of the resolution of 5 January 1949, should the Commission and/or the Plebiscite Administrator conclude that it is necessary for the defence of the area, the Commission and/or the Plebiscite Administrator may agree to your Government stationing garrisons north of the cease-fire line, as contemplated under section I D.

- (c) The Commission hopes that your Government will do all in its power to further the objective set forth in section III F. It believes that the announcement of the release of political prisoners and the abrogation of emergency laws relating to civilian movement in the State and other similar measures, would be valuable contributions to the achievement of those conditions which will enable rapid progress in the preparations for the plebiscite.

With respect to point II. B, the Commission, with due regard to the security of the State, presents the following plan of withdrawal for the bulk of the Indian forces from the territory of the State of Jammu and Kashmir.

(At the request of the Government of India, the schedule of the withdrawal of troops is not reproduced here.)

The Commission requests your Government's reply within one week.

(Signed) A. Lozano
Chairman

23. *Text of the Letter dated 28 April 1949 from the Chairman of the Commission Mr. A. Lozano, addressed to the Minister for Kashmir Affairs, Government of Pakistan, regarding the truce terms (UN Document No. S/AC. 12/194)*

I have the honour to acknowledge the receipt of your Government's reply to the Commission's proposals of 15 April

1949 regarding the implementation of part II of the resolution of 13 August 1948.

The Commission has given serious study to the replies of the Government of Pakistan and the Government of India and has formulated truce terms which I have the honour to transmit to Your Excellency herewith. The terms now submitted to your Government endeavour to reconcile so far as possible the views of both Governments with respect to the present situation, and adhere to the framework of the resolution of 13 August 1948.

The Commission considers it essential that the Governments of Pakistan and India agree on terms which will permit the implementation of the provisions of the truce without further delay, and cannot but express to Your Excellency the urgency which it attaches to the withdrawal of armed forces from the State of Jammu and Kashmir. The Commission does not believe that fruitful results would be obtained from further discussions. It is in this spirit that the Commission requests your Government's unreserved acceptance of the enclosed terms.

To aid your Government's consideration of certain points of the truce terms, the Commission sets forth below the following observations:

(a) With respect to section II, it is desired to emphasize to the Government of Pakistan that the schedules of withdrawals of the Pakistan troops and the bulk of the Indian forces will be faithful to the Commission's resolution of 13 August 1948 and represent a co-ordination of timing which in the view of the Commission will constitute a synchronized action.

(b) A period of three months for the withdrawal of Pakistan troops was previously contemplated in view of your Government's suggested reorganization of the Azad Kashmir forces. The Government of India had agreed in principle to a three-months withdrawal period for the Pakistan troops on the

understanding that there would be a reduction of the Azad Kashmir forces. The Government of Pakistan insisted that the question of the Azad Kashmir forces be considered only in the light of point 4 (a) and (b) of the resolution of 5 January 1949 and be acted upon only after the acceptance of the truce. The Commission has based its terms on part II of the resolution of 13 August 1948 and has not felt able to modify its proposals of 15 April 1949 in this regard, except as indicated below.

(c) Section III C, in relation to III B, provides for the extension of the period of the withdrawal of Pakistan troops in order to expedite the implementation of decision which might be taken as a result of the consultations envisaged under point 4 (b) of the Commission's resolution of 5 January 1949, which are to be immediately entered into upon the acceptance of the enclosed terms.

(d) Part III, section G, recognizes that the Commission cannot prejudge the sovereignty and integrity of the State as a whole. It should not be construed as envisaging the introduction into the area to be evacuated by Pakistan troops of civil or military officials of the Government of Jammu and Kashmir or of the Government of India for the purpose of administration or control. The Commission does not feel that the presence of this clause in the enclosed terms introduces a controversial subject, nor does it in any way affect the agreement already reached by both Governments in their acceptance of the Commission's resolution of 13 August 1948.

(e) The Commission hopes that your Government will do all in its power to further the objective set forth in section III F. It believes that the announcement of the release of political prisoners and the abrogation of emergency laws relating to civilian movement in the State and other similar measures would be valuable contributions to the achievement of those conditions which will enable rapid progress in the preparations for the plebiscite.

The Commission requests your Government's reply within one week.

(Signed) Alfredo Lozano
Chairman

24. *Text of the Letter dated 26 April 1949 from the Minister for Kashmir Affairs, Government of Pakistan Mr. Gurmant addressed to the Chairman of the Commission, regarding the northern areas (UN Document No. S/AC.12/190)*

In continuation of Mr. Ayub's letter of 23rd April, 1949, to Ambassador Colban forwarding a note [see appendix] regarding the areas north of the cease-fire line, it might be of assistance to the Commission if I were to recapitulate why we regard the proposal to post Indian troops in the area north of the cease-fire line in any contingency as a clear contravention of part II of the Commission's resolution of 13 August 1948.

In the first place, the area north of the cease-fire line is "evacuated territory" precisely in the same way as the area west of the cease-fire line. In their letter of 3rd September, 1948, to the Foreign Minister of Pakistan [S/1100, paragraph 95], the Commission explained that the term "evacuated territory" used in paragraph A. 3 of part II of the resolution of 13th August, 1948 "refers to those territories...which are at present under the effective control of the Pakistan High Command." The area north of the cease-fire line was as much under the effective control of the Pakistan High Command as the area west of the cease-fire line.

The Commission also gave us an undertaking on 31st August, 1948, that neither the Government of India nor the Maharaja's Government would be permitted to send any military or civil officials to the evacuated territory. The posting of Indian garrisons in any part of the area north of the cease-fire line would be a violation of this undertaking.

Secondly, under paragraph B. 2 of part II of the Commission's resolution of 13th August, 1948, such Indian forces

as are allowed to stay after the withdrawal of the "bulk" of the Indian forces are to be posted "within the lines existing at the moment of the cease-fire". This applies as much to the area north of the cease-fire line as to the rest of the evacuated territory.

During the discussions preceding the acceptance of the resolution of 5th January, 1949 by the Governments of India and Pakistan, the Government of India had, again and again, stressed their interest in the security of the State. Nevertheless, the Commission did not recognize their right to post Indian troops beyond the cease-fire line. The undertaking given by the Pakistan Government to deal effectively with any possibility of a tribal raid within their own borders applies as much to the areas north of the cease-fire line as to areas west of the cease-fire line.

I would, therefore, submit that the proposal to post Indian garrisons in areas north of the cease-fire line in any contingency is as much a violation of part II of the Commission's resolution as a similar proposal in respect of areas west of the cease-fire line would be.

(Signed) M. A. Gurmani

APPENDIX

Paper presented by the Government of Pakistan on the area north of the cease-fire line excluding Gilgit Agency and Gilgit Sub-Division.

1. DEFINITION

The area comprises the Astore, Skardu and part of Kargil Tehsils, and Guraiz Sub-Tehsil.

2. SCOPE

This deals with:

- (a) The geography, communications and economic conditions of the area;

- (b) A brief history of the fighting in this area;
- (c) The system of civil administration; and
- (d) Defence against external aggression.

3. GEOGRAPHY

The whole area is extremely mountainous with the high Karakoram range averaging 18,000 feet in the north, and range of hills, enclosing the Kashmir Valley on the north and north-east, to the south. The whole area forms the basin of the river Indus. To the north the passes are 15,500 to 19,000 feet high, and to the south and south-east 12,000 to 16,000 feet. These passes remain blocked for roughly five to seven months in the year due to snow. The routes along the river Indus are the only ones which remain open throughout the year.

The population is concentrated in the river valleys.

4. COMMUNICATIONS—LAND ROUTES

The land routes fall into three categories:

(a) Trade routes leading from Central Asia. These are:

(i) Kashgar (Sinkiang Province), Mintaka Pass (15,450 feet), Hunza, Gilgit, Chilas.

(ii) Another route from Russian Turkestan and the Wakhan Province of Afghanistan joins route (i) just south of the Mintaka Pass and crosses the Kilik Pass (15,400 feet).

(iii) Yarkand, Karakoram Pass (18,240 feet), Chang La (18,370 feet), Leh. This route skirts this area to the south and south-east, and falls directly into Indian-held territory.

These routes cross very high passes, and are used by traders for only four or five months in the year during which the passes remain open. Only pack animals can be used on these routes. The railheads for normal trade in case of all these routes are located in Pakistan.

(b) Those connecting the area with Kashmir Valley:

Astore, Burzil-Kamri Pass (13,500 feet), Gurais, Tragal (11,500 feet), Srinagar, 150 miles.

Srinagar-Gurais, approximately 70 miles, now jeepable.

(Note: Leh, which is held by Indian forces, is connected with the Kashmir Valley through Kargil, Dras, Zoji La (11,500 feet), Sonamarg, Srinagar, 220 miles. The whole of this route is in Indian hands. Leh is also connected with India through the following route: Leh, Upshi, Taglang La (17,479 feet), Bara Lacha La (16,200 feet), Manali, Kulu (Kangra Valley, East Punjab), approximately 300 miles. This route is extremely long and difficult, crosses high passes and remains open only for about four months in the year, and is seldom, if ever, used by traders. India found it extremely difficult to use this route even for reinforcing Leh during the fighting in 1948.)

(c) Those connecting the area with Pakistan:

(i) Skardu-Rondu-Gilgit-Bunji-Chilas-Babusar (13,000 feet), Balakot-Havelian (railhead in Hazara District North West Frontier Province), approximately 272 miles. Also from Chilas down the Indus river to Hazara District and Swat State. There is no high pass along the Indus route. The route Gilgit-Bunji-Chilas-Babusar-Balakot is jeepable. Efforts are being made to make the route Gilgit (Bunji)-Skardu also jeepable within a short period. There is no pass between Skardu-Gilgit-Chilas along this route. Before the war the Chilas-Babusar-Balakot-Havelian route was the main and cheapest trade route, and was used by traders in preference to the longer and more costly routes through the Kashmir Valley to Rawalpindi railhead.

(ii) Skardu-Gilgit-Shandur Pass (12,210 feet)-Chitral Dargai (railhead in Mardan District, North West Frontier Province) is open all the year round for pack animals.

5. AIR COMMUNICATIONS

There exist: a good all-weather Dakota strip at Gilgit; a

good all-weather Dakota strip at Skardu; a Dakota strip at Chilas.

Rawalpindi to Gilgit is approximately 1 hour 30 minutes.

Rawalpindi to Skardu is approximately 2 hours.

Aircraft have to follow the Indus Valley and cross no passes. Flying is possible all the year round, except in inclement weather.

Between Kashmir Valley and the north, high passes have to be crossed and flying is not safe in the winter, when the passes are often covered by fog and clouds. No flying has ever been attempted between East Punjab and the Leh area.

6. THE ECONOMIC CONDITIONS OF THE AREA

The area is self-sufficient in foodgrains, and woollen clothes which are worn are locally manufactured. The main imports into the area are salt, tea, sugar and kerosene oil. Salt comes from the Khewra mines in Pakistan, as only rock salt is consumed. The other imports also come from Pakistan via the Babusar and Chitral routes.

In addition to necessities of life, other goods such as fine cloth, soap, cigarettes, etc., have begun to move in fair quantities since the construction of Dakota strips at Gilgit and Skardu, and the making of the Balakot-Gilgit road into a jeepable one.

This area is in no way dependent upon the Kashmir Valley, which produces none of the supplies it needs. The fact that it has been cut off from the Kashmir Valley for the last 18 months has produced no adverse effects upon the economic life of the area.

7. A BRIEF HISTORY OF THE REVOLT AND SUBSEQUENT OPERATIONS

In October 1947, there were the following forces in the area and the adjoining territories:

(a) Gilgit Agency and Sub-Division, approximately 500 Gilgit Scouts officered by Jammu and Kashmir State officers, and two British officers in State employ.

(b) Gilgit Wazarat and Baltistan :

Gilgit Wazarat—One battalion, less one company (State forces, 50 per cent Muslim, 50 per cent non-Muslim);

Skardu (Baltistan)—One company (State force, 25 per cent Muslim, 75 per cent non-Muslim);

Leh—One company, less one platoon (State forces, all non-Muslims).

On 28th October 1947, the Gilgit Scouts, assisted by the Muslim element of the State army, staged a successful bloodless coup d'etat, and the military Governor and the non-Muslim elements of the State Army and Civil Administration were disarmed and arrested. The treasury, and large quantities of arms, ammunition, equipment, clothing and supplies were captured.

An emergency administration was set up which took over effective control of the entire Gilgit Agency and Sub-Division, Gilgit Wazarat and Rondu Sub-Tehsil of Baltistan. The local authorities announced the desire of the people to accede to Pakistan in a series of telegrams to the Pakistan Government.

In view of the international importance of the area, and the danger of foreign intervention in disturbed conditions, the Pakistan Government sent a Political Agent in the middle of November 1947 to provisionally take over the administration in order to restore law and to stabilize conditions.

The Muslim element of the State Army (approximately 400 strong) started raising more volunteers for the Azad Army, and equipped them with weapons they had seized from the non-Muslim elements. This Azad Army set up its head-

quarters in Astore (Gilgit Wazarat), and towards the middle of January 1948, sent out a strong column to Baltistan.

On 10th February 1948 the column reached Skardu, where it was joined by the Muslim elements of the garrison with their arms, and by hundreds of local Baltistani volunteers. The non-Muslim elements of the garrison, along with the non-Muslim civil population of Skardu, withdrew into the fort, where they were besieged.

All the local Rajas of Baltistan (who are all Muslims) denounced the Maharaja's rule and pledged their allegiance to Azad Kashmir. Civil administration was set up in the area up to but excluding Kargil. Volunteers were recruited and organized into battalions.

Towards the end of February 1948 a column of the Maharaja's State forces sent by the Indian Army to relieve the besieged garrison of Skardu was almost completely wiped out north of Kargil, and its supplies and equipment captured.

Early in April 1948, an Azad column from Astore (one battalion) moved south and occupied Gurais and the Kishanganga Valley, and captured Tragbal Pass. A civil administration was set up in the whole area and local militia was raised.

About the end of April a much stronger relief column, approximately two battalions of State forces, with some Indian army troops under the overall command of Lieutenant Colonel Sampuran Singh (Indian Army), left Kargil in a determined attempt to relieve Skardu. This column was completely routed, losing approximately half in killed and nearly all the rest taken prisoner. All their arms, ammunition and equipment were captured. After the victory the Azad forces pushed through to capture Kargil on 11 May, Dras on 27 May and Zoji Pass early in June, and advanced to within 30 miles of Leh. This force was composed mainly of locals. The trained nucleus for tactical direction and leadership was provided by

the ex-servicemen of the area and the Muslim element of the State Army who had revolted earlier.

In June 1948, a contingent of about 400 volunteers from Chitral State arrived in Skardu and were entrusted with its siege. The local forces thus released were able to extend their operations to the Ladakh Tehsil till by the middle of July. Leh was virtually besieged.

On 12th August 1948 the Skardu garrison, having run out of supplies and ammunition, capitulated.

After repeated attempts supported by artillery and air force, one Indian brigade succeeded in recapturing Tragbal Pass and Gurais in June 1948, but was firmly held and could not make any further advance beyond this point in any direction.

In the Zoji Pass area repeated attacks by four Indian battalions, supported heavily by artillery, armour and air during the period June-November 1948 were beaten back with very high casualties. In November-December 1948, however, after a 14-day continuous air and artillery bombardment, and led personally by Major-General Thimmaya, they succeeded in breaking through the Azad positions, and this only after the forces had completely run out of ammunition. The Indian Army captured Dras and Kargil early in December 1948 and achieved a link up with Leh. The Azad forces re-established a defence line north of Kargil and west of the line Zoji-Kargil. This line held firm until the cease-fire and is still held. A small Azad force east of the road Zoji-Kargil-Leh remained in control of the entire Ranskar-Suru areas to the south of Leh up to the day of cease-fire. This force is still occupying the above area.

No Pakistan regular troops have at any stage been employed in any of these operations. The only Pakistan force in this area is one company of infantry stationed at Gilgit since October 1948.

Ever since May 1948, when Pakistan troops entered Kashmir and overall tactical control was taken over by

G.H.Q. Pakistan, the Commandant of the Gilgit Scouts, a Pakistan Army Officer, has been exercising overall tactical and administrative control of Gilgit Scouts, Baltistan Scouts and the local militias.

8. CIVIL ADMINISTRATION

Before the overthrow of the Maharaja's administration in October 1947, civil administration of Gilgit Wazarat was in charge of a "Revenue Assistant" with headquarters at Astore, and in the Baltistan-Ladakh area there was a Wazir-i-Wazarat with winter headquarters at Skardu and summer headquarters at Leh. The above officials were helped by a small number of police, Public Works Department, Forests and Revenue officials.

Since the overthrow of the Maharaj's administration in October 1947, the civil administration of this area has been run by an Assistant Political Agent, assisted by two Tehsildars for Skardu and Kargil Tehsils, and three Naib-Tehsildars for the Deossi, Kargil-Marol, and the Skardu-Rondu areas. After the capture of Skardu fort on 12th August 1948, the headquarters of the Assistant Political Agent were located at Skardu. The Gilgit Wazarat has been administered by another Assistant Political Agent with his headquarters at Astore, assisted by one Tehsildar and two Naib-Tehsildars for Astore and Gurais areas.

The above officials are helped by the requisite number of police, Police Works Department and Revenue officials. Revenue is properly collected and credited to the locals treasury. The civil administration is running much more efficiently than in the days of Dogra rule, and the people are content.

The Political Agent, Gilgit, keeps a general eye on the civil administration.

9. DEFENCE

Any danger of a tribal incursion into this area can be ruled out as such an incursion could only take place through

territory held by Pakistan. The Pakistan Government have already given an assurance to deal effectively with any such incursions within their own borders even if this should necessitate the use of their armed forces.

The only possibility of external aggression is from the north.

A threat from the north can develop along two main routes:

- (i) Kashmir-Hunza-Gilgit;
- (ii) Sinkiang-Leh-Kargil-Zoji La.

The latter one is entirely under Indian Army control and need not be considered in this paper.

If any threat develops along the former route, it would necessarily have to be met by Pakistan with the active assistance of the local population. The natural hardihood and superb fighting qualities of the locals of this area, accustomed to living in the cold and at high altitudes, have proved beyond any doubt the superiority of the locals of this area to the men from the plains of India when it comes to fighting in these high altitudes. The heavy Indian losses in this region, and the failure of their numerically superior and better equipped troops supported by artillery and air, to make headway against much smaller and poorly equipped local forces, is a testimony to the latter's fighting qualities and adaptation to the terrain.

The Muslim population of this area is approximately 200,000. It can easily produce a force of at least 30,000 men. This force, without much help from the Pakistan Army, could hold even a major attack launched south during the few summer months when the high passes remain open. The willing assistance of the local population against foreign aggression would be available to Pakistan but not to India.

In addition to the above, this route is flanked by the Black Mountain areas, Swat and Chitrol States, etc., who owe

their allegiance to Pakistan, and would provide a large number of good fighting men to fight any aggression against Pakistan territory.

It might be argued that an aggressor power could drop thousands of parachutists and maintain them by air supply. This is feasible, although extremely hazardous in view of the danger of a too fast descent in rarefied air. But a parachute landing can only be successful if a land link-up with them can be quickly achieved, or they get the assistance of the local population. This would be practically impossible against Pakistan, but might be achieved against India if Indian control is forcibly imposed upon the population.

Indian forces will depend on a single unmetalled and very precarious road, hundreds of miles long, from India for maintenance. On the other hand, Pakistan could rely upon a considerable force of locals, who are the world's finest fighters in the geographical and climatic conditions that prevail in these parts.

The above appreciation is based on the hypothetical assumption of an aggression from the north. In point of fact, owing to the political conditions now obtaining in Central Asia, no such threat is likely to materialize in the near future, and even if it did, there is less likelihood of the predominantly Muslim people of Sinkiang launching an attack on territory controlled by Pakistan than if India were in control. In any case, any act of foreign aggression would be a matter for the Security Council to consider and to take appropriate measures to deal with it. It could not at any time be regarded as the sole, or even primary, concern of India, as Pakistan is even more directly interested in the security of this area. Another aspect which deserves consideration is that the population of this area is wholly Muslim and is so opposed to the imposition of Indian rule that even a mention of a proposal to post Indian garrisons in a future contingency would create intense unrest. The actual posting of Indian garrisons would have still more disastrous effects on the peace and tranquillity of

the area, as it would give rise to a war of resistance against the Indian forces.

10. CONCLUSIONS

- (a) Geographically, the country in spite of its vastness, is in reality mainly the Indus River basin and the few tributaries of the Indus River which flow into Pakistan, and provide the only route which is open throughout the year both for land traffic and air communication. All the routes leading in and out of the area into India are far longer, more difficult and blocked for a longer period of the year than those leading into territory controlled by Pakistan.
- (b) Ever since the overthrow of the Dogra regime, the territory has been firmly under Azad control and has been properly administered. In fact, the administration has been better than ever in the past. This is proved by the successful resistance of the local population against the superior forces ranged against them by India.

There is no basis in fact for India's claim that the Maharaja's administration in area remained undisturbed except by "roving bands". After the overthrow of the Maharaja's regime in October 1948, the Maharaja never recovered his hold over any part of this territory.

The holding up beyond Gurais and Zoji La of the advance of an Indian force of over two brigades supported by armour, artillery and air for eight months, the inflicting of very heavy losses in killed, wounded and nearly 600 prisoners, the eight-months siege of and capitulation of Skardu, the isolation of Leh for nine months, all prove that it was not "roving bands" but an organized and determined force of local men who fought the Indian forces and kept them at bay.

- (c) Economically the country is more or less self-sufficient, only a few necessities of life having to be imported. These come almost entirely from Pakistan over the routes already mentioned.

- (d) There is no real danger of any tribal incursion as any such incursion would be dealt with by Pakistan. As regards the hypothetical possibility of foreign aggression from the north, Pakistan is in a much better position to deal with it than India because it enjoys the support of the local population who are the best fighters under the conditions obtaining in this region. The posting of Indian garrisons far from ensuring security against foreign attack, would result in an unending civil war, and would thus create conditions in which foreign intervention might be sought and become effective.

25. *Text of the Letter dated 2 July 1949 from the Chairman of the Commission Mr. Leguizamón addressed to the Governments of India and Pakistan inviting military representatives to a joint meeting in Karachi (UN Document No. S/A.C. 12/224)*

As your Government is aware, the Commission has made repeated efforts to establish a cease-fire line in the State of Jammu and Kashmir, mutually agreed upon by the Governments of Pakistan and India, and based on the factual positions at the moment of the cease-fire on 1 January 1949.

It has been the Commission's hope that the joint meeting of the Commanders-in-Chief of Pakistan and India on 15 January 1949, which offered promise of success in the settlement of the numerous matters which arose as a result of the cease-fire, would be the first of a series of similar conferences. The joint meetings held in New Delhi in March of this year under the auspices of the Commission's Truce Subcommittee were an attempt to take advantage of the manifest benefits of such meetings as a means of reaching agreement on military questions.

The demarcation of a line is an urgent necessity. Further, the cease-fire line is a complement of the suspension of hostilities, which falls within the provisions of part I of the resolution of 13 August 1948, and can be considered

separately from the questions relating to part II of the same resolution.

In view of the foregoing, the Commission invites your Government to send fully authorized military representatives to meet jointly with those of India [Pakistan] in Karachi, under the auspices of the Commission's Truce Sub-committee. The first of these proposed meetings, if suitable to your Government, might be held on Monday, 11 July.

The meetings will be for military purposes; political issues will not be considered. They will be conducted without prejudice to negotiations concerning the truce agreement.

The cease-fire line proposed by the Commission in its letter of 28 April 1949 (annexes 22, 23), and completed by the Commission's Military Adviser as envisaged in part I of the Commission's truce terms of 28 April (annex 21), will be the basis of discussion.

The Commission proposes these meetings in the hope that the discussions between the military representatives will result in an agreed cease-fire line.

(Signed) C. A. Leguizamon

26. *Text of the Agreement 27 July 1949, between military representatives of India and Pakistan regarding the establishment of a cease-fire line in the State of Jammu and Kashmir (UN Document No. S/AC. 12/TC. 4)*

I. INTRODUCTION

A. The military representatives of India and Pakistan met together in Karachi from 18 July to 27 July 1949 under the auspices of the Truce Sub-committee of the United Nations Commission for India and Pakistan.

B. The members of the Indian delegation were: Lieutenant General S. M. Shrinagesh, Major General K. S. Thimayya, Brigadier S. H. F. J. Manekshaw. As observers: Mr. H. M. Patel, Mr. V. Sahay.

C. The members of the Pakistan delegation were: Major General W. J. Cawthorn, Major General Nazir Ahmad, Brigadier M. Sher Khan. As observers: Mr. M. Ayub, Mr. A. A. Khan.

D. The members of the Truce Sub-committee of the United Nations Commission for India and Pakistan were: Mr. Hernando Samper (Colombia), Chairman; Mr. William L. S. Williams (United States); Lieutenant General Maurice Delvoie, Military Adviser; Mr. Miguel A. Marin, Legal Adviser.

II. AGREEMENT

A. Considering:

1. That the United Nations Commission for India and Pakistan, in its letter dated 2 July 1949 (annex 25), invited the Governments of India and Pakistan to send fully authorized military representatives to meet jointly in Karachi under the auspices of the Commission's Truce Sub-committee to establish a cease-fire line in the State of Jammu and Kashmir, mutually agreed upon by the Governments of India and Pakistan;

2. That the United Nations Commission for India and Pakistan in its letter stated that "The meetings will be for military purposes; political issues will not be considered," and that "They will be conducted without prejudice to negotiations concerning the truce agreement";

3. That in the same letter the United Nations Commission for India and Pakistan further stated that: "The cease-fire line is a complement of the suspension of hostilities, which falls within the provisions of part I of the resolution of 13 August 1948, and can be considered separately from the questions relating to part II of the same resolution";

4. That the Governments of India and Pakistan, in their letters dated 7 July 1949 to the Chairman of the Commission, accepted the Commission's invitation to the military conference in Karachi;

B. The delegations of India and Pakistan, duly authorized, have reached the following agreement:

1. Under the provisions of part I of the resolution of 13 August 1948, and as a complement of the suspension of hostilities in the State of Jammu and Kashmir on 1 January 1949, a cease-fire line is established.

2. The cease-fire line runs from Manawar in the south, north to Keran and from Keran east to the glacier area, as follows:

(a) The line from Manawar to the south bank of the Jhelum River at Urusa (inclusive to India) is the line now defined by the factual positions about which there is agreement between both parties. Where there has hitherto not been agreement, the line shall be as follows:

(i) In Patrana area: Kohel (inclusive to Pakistan) north along the Khuwala Kas Nullah up to Point 2276 (inclusive to India), thence to Kirni (inclusive to India).

(ii) Khambha, Pir Satwan, Point 3150 and Point 3606 are inclusive to India, thence the line runs to the factual position at Bagla Gala, thence to the factual position at Point 3300.

(iii) In the area south of Uri the positions of Pir Kanthi and Ledi Gali are inclusive to Pakistan.

(b) From the north bank of the Jhelum River the line runs from a point opposite the village of Urusa (NL, 972109), thence north following the Ballaseth Da Nar Nullah (inclusive to Pakistan), up to NL 973140, thence northeast to Chhota Quzinag (Point 10657 inclusive to India), thence to NM 010180, thence to NM 03721, thence to Point 11825 (NM 025354, inclusive to Pakistan), thence to Tutmari Gali (to be shared by both sides, posts to be established 500 yards, on either side of the Gali), thence to the northwest through the first "R" of Burji Nar to north of Gadori, thence straight west to just north of Point 9870, thence along the black line north of Bijidhar to north of Batarasi, thence to just south

of Sudpura, thence due north to the Kathqazinag Nullah, thence along the Nullah to its junction with the Grangnar Nullah, thence along the latter Nullah to Kajnwala Pathra (inclusive to India), thence across the Danna ridge (following the facual positions) to Richmar Gali (inclusive to India), thence north to Thanda Katha Nullah, thence north to the Kishanganga River. The line then follows the Kishanganga River up to a point situated between Jargi and Tarban, thence (all inclusive to Pakistan) to Bankoran, thence north-east to Khor, thence to the hill feature 8930 (in Square 9053), thence straight north to Point 10164 (in Square 9057), thence to Point 10323 (in Square 9161), thence northeast straight to Guthur, thence to Bhutpathra, thence to NL 980707, thence following the Bugina Nullah to the junction with the Kishanganga River at Point 4739. Thereafter the line follows the Kishanganga River to Keran and onwards to Point 4996 (NL975818).

(c) From Point 4996 the line follows (all inclusive to Pakistan) the Jamgar Nullah eastward to Point 12124, to Katware, to Point 6678, then to the northeast to Sarian (Point 11279), to Point 11837, to Point 13090, to Point 12641, thence east again to Point 11142, thence to Dhakki, thence to Point 11415, thence to Point 10301, thence to Point 7507, thence to Point 10685, thence to Point 8388, thence south-east to Point 11812. Thence the line runs (all inclusive to India) to Point 13220, thence across the River to the east to Point 13449 (Durmal), thence to Point 14586 (Anzbari), thence to Point 13554 thence to Milestone 45 on the Burzil Nullah, thence to the east to Ziankal (Point 12909), thence to the southeast to Point 11114, thence to Point 12216, thence to Point 12867, thence to the east to Point 11264, thence to Karo (Point 14985), thence to Point 14014, thence to Point 12089, thence following the track to Point 12879. From there the line runs to Point 13647 (Karobal Gali, to be shared by both sides). The cease-fire line runs thence through Retagah Chhish (Point 15316), thence through Point 15889, thence through Point 17392, thence through Point 16458, thence to Marpo La (to be shared by both sides), thence through Point 17561, thence through Point 17352, thence through Point

18400, thence through Point 16760, thence to (inclusive to India), Dalunang.

(d) From Dalunang eastwards the cease-fire line will follow the general line Point 15495, Ishmam, Manus, Gangam, Gunderman, Point 13620, Junkar (Point 17628), Marmak, Natsara, Shangruti (Point 17531), Chorbat La (Point 16700), Chalunka (on the Shyok River), Khor, thence north to the glaciers. This portion of the cease-fire line shall be demarcated in detail on the basis of the factual position as of 27 July 1949 by the local commanders, assisted by United Nations Military Observers.

C. The cease-fire line described above shall be drawn on a one-inch map (where available) and then be verified mutually on the ground by local commanders on each side with the assistance of the United Nations Military Observers, so as to eliminate any no-man's land. In the event that the local commanders are unable to reach agreement, the matter shall be referred to the Commission's Military Adviser, whose decision shall be final. After this verification, the Military Adviser will issue to each High Command a map on which will be marked the definitive cease-fire line.

D. No troops shall be stationed or operate in the area of the Burzil Nullah from south of Minimarg to the cease-fire line. This area is bounded on the west by the ridge leading northeast from Dudgaikal to Point 13071, to Point 9447, to Point 13466, to Point 13463, and on the east by the ridge running from Point 12470, to Point 11608, to Point 13004, to Point 13976, to Point 13450. Pakistan may, however, post troops on the western of the above ridges to cover the approaches to Kamri Bal Pass.

E. In any dispositions that may be adopted in consequence of the present agreement troops will remain at least 500 yards from the cease-fire line except where the Kishanganga River constitutes the line. Points which have been shown as inclusive to one party may be occupied by that party, but the troops of the other party shall remain at a distance of 500 yards.

F. Both sides shall be free to adjust their defensive positions behind the cease-fire line as determined in paragraphs A through E, inclusive, subject to no wire or mines being used when new bunkers and defences are constructed. There shall be no increase of forces or strengthening of defences in areas where no major adjustments are involved by the determination of the cease-fire line.

G. The action permitted by paragraph F above shall not be accompanied or accomplished by the introduction of additional military potential by either side into the State of Jammu and Kashmir.

H. Except as modified by paragraph A to G, inclusive, above, the military agreements between the two High Commands relating to the cease-fire of 1 January 1949 shall continue to remain operative.

I. The United Nations Commission for India and Pakistan will station Observers where it deems necessary.

J. The delegations shall refer this agreement to their respective Governments for ratification. The documents of ratification shall be deposited with the United Nations Commission for India and Pakistan not later than 31 July 1949.

K. A period of thirty days from the date of ratification shall be allowed to each side to vacate the areas at present occupied by them beyond the cease-fire line as now determined. Before the expiration of this thirty-day period there shall be no forward movement into areas to be taken over by either side pursuant to this agreement, except by mutual agreement between local commanders.

In faith whereof the undersigned sign this document in three original copies.

Done in Karachi on 27 July 1949.

For the Government of India:

(Signed) S.M. Shrinagesh

For the Government of Pakistan:

(Signed) J. Cawthorn
Major General

For the United Nations Commission
for India and Pakistan:

(Signed) Hernando Samper
M. Delvoie

27. *Text of the Letter dated 9 August 1949 from the Chairman of the Commission Mr. H. Samper addressed to the Governments of India and Pakistan inviting them to the joint meeting, enclosing memoranda on view on the Commission's truce terms of 28 April 1949, and a provisional agenda (UN Document No. S/AC. 12/240)*

The United Nations Commission for India and Pakistan has taken note of your Government's reply dated 30 (18) May to the Commission's truce proposals of 28 April 1949, (The Commission has likewise taken cognizance of your letters dated 17 and 19 June on the same subject). The Commission has also received a reply to the truce proposals from the Government of India (Pakistan).

The Commission notes that neither Government has given its unreserved acceptance to the proposals and that they still hold divergent views on the problem. While the Commission remains convinced of the readiness of both Governments to fulfil the commitments they have already made, it appears that further separate negotiations to bring about agreement can hardly be expected to render the desired result within a reasonable time.

The Commission invited the two Governments to a joint military meeting in Karachi for agreement on a cease-fire line. The successful result of that meeting and the spirit of co-operation and mutual understanding shown by the delegations of Pakistan and India lead the Commission to hope that similar meetings for the purpose of agreeing on the implementation of the truce could prove equally successful.

After having ascertained informally that both Governments favour in principle such a procedure, I therefore have the honour, on behalf of the Commission, to propose joint meetings at ministerial level of representatives of your Government with representatives of the Government of India (Pakistan) under the auspices of the Commission for the implementation of part II of the Commission's resolution of 13 August 1948.

The Commission would propose that these meetings should begin in New Delhi and, according to circumstances, be continued in Karachi.

In informal conversations both Governments have suggested that the Commission submit a provisional agenda for these meetings. Further, the Chairman of the Commission was requested by Your Excellency to recommend to the Commission that it communicate to your Government the substance of the points of view of the Government of India (Pakistan) on the implementation of the truce. The Government of India (Pakistan) made a similar request.

In accordance with the wish thus expressed by both Governments the Commission has drafted the annexed provisional agenda [appendix 1]. It is understood that both parties will be free to propose modifications of this agenda at the opening session.

Two additional documents are annexed, one giving in substance the views of the Indian Government on the Commission's truce proposals of 28 April 1949 (appendix 2), and the other giving in substance the views of the Pakistan Government [appendix 3]. It should, however, be understood that the discussions in the joint meetings will be independent of the said truce proposals.

The Commission is anxious to proceed in this matter as soon as possible. I should be grateful if Your Excellency would indicate whether it would be convenient to the Pakistan (Indian) Government that the first joint meeting should take

place on 17 August at such premises in New Delhi as the Government of India may be able to place at the disposal of the Commission for this purpose.

(Signed) Hernando Samper
Chairman

APPENDIX I

PROVISIONAL AGENDA

1. Adoption of the agenda.
2. Withdrawal of Pakistan armed forces from the State of Jammu and Kashmir (resolution of 13 August 1948, part II, A 1).
3. Withdrawal of tribesmen and all Pakistan nationals not normally resident in the State of Jammu and Kashmir who have entered the State for the purpose of fighting (resolution of 13 August 1948, part II, A 2).
4. Withdrawal of the bulk of the Indian armed forces from the State of Jammu and Kashmir (resolution of 13 August 1948, part II, B 1, 2).
5. Related questions.

APPENDIX 2

Memorandum on the Government of India's point of view with respect to the Commission's truce terms of 28 April 1949

Disbanding and disarming of "Azad Kashmir" forces (Truce terms of 28 April 1949, paragraph III, B and C)

The Indian Government, in a letter of 18 May 1949, declared that both from the standpoint of the security of the State and the freedom and impartiality of the plebiscite, the disbanding and disarming of "Azad Kashmir" forces should not be left in a state of uncertainty or be hereafter the subject of challenge and dispute. It therefore declared it to be of

the utmost importance (1) that the agreement of the Government of Pakistan should be obtained then to the disbanding and disarming of the 32 battalions of "Azad Kashmir" forces, and (2) the discussions regarding the procedure and phasing of the disbandment and disarming should commence immediately after the truce was signed. In the view of the Government of India decisions on a programme designed to achieve this objective should be taken as soon as possible, and (3) the phasing of the withdrawal of Indian troops should not be divorced from and should depend on the progress made with the actual disbanding and disarming of the "Azad Kashmir" forces.

In a letter of 17 June 1949 the Indian Government further stated that if, by the end of the 7 weeks referred to in III. C of the Commission's proposals, the Commission should find that the large-scale disbanding and disarming of the "Azad Kashmir" forces was impracticable, the conditions mentioned in point 2 of the Commission's resolution of 5 January 1949 would be deemed not to have been completed.

Treatment of the sparsely populated and mountainous areas in the north (Truce terms, paragraph I D)

In its letter of 18 May 1949, the Government of India referred to the Prime Minister's letter to Mr. Korbel of 20 August 1948 [S/1100, paragraph 80], and maintained that the principle that Indian troops should garrison important strategic points should be accepted.

In a letter of 17 June 1949, the Indian Government declared that it was willing to occupy only a certain limited number of points, in the expectation that all Pakistan forces, regular and irregular, would be withdrawn from the State. Should this expectation not be realized or should a threat to the security of the State or the maintenance of internal order arise in the area from any other source, the Government of India should be free to garrison with their forces all or any other points previously mentioned.

In a letter of 17 June the Indian Government submitted a programme of withdrawal for the Indian forces. The Government of India has further maintained that such withdrawal plan as may subsequently be agreed upon with the Commission should not be communicated to Pakistan until a truce agreement has been arrived at.

APPENDIX 3

Memorandum on the Government of Pakistan's point of view with respect to the Commission's truce terms of 28 April 1949

Northern area (Truce terms of 28 April 1949, paragraph I D)

The Pakistan Government submits that the proposal contained in paragraph I D of the truce terms is not in accordance with the Commission's resolution of 13 August 1948 is necessary and, far from assuring peace and tranquillity in this area, is likely to create conditions of unrest and insecurity.

Withdrawal of troops (truce terms, paragraph III A, B and C,

The Pakistan Government states that it has already carried out an important part of its obligations in effecting the withdrawal of tribesmen and of almost all Pakistan nationals who had entered the State for the purpose of fighting. It is also ready to withdraw all Pakistan troops from the State of Jammu and Kashmir under the terms of the resolution of 13 August 1948, as elucidated to the Pakistan Government.

The Pakistan Government declares that without knowing the schedule of withdrawal of the Indian forces, on the basis of which a synchronized withdrawal of the two armies could be arranged, the Pakistan Government is not in a position to take a decision on the Commission's truce terms, the central feature of which is the withdrawal programme of the two armed forces.

Disposition of the Indian State forces and the Azad Kashmir forces (Truce terms, paragraph III B and C)

The Pakistan Government declares that it is understood that it is the Commission's intention to associate the Plebiscite Administrator with the discussions under these paragraphs from the outset, even though he may not have been formally appointed to office by then. The Pakistan Government also understands that the Pakistan Army, during the extended time, would be able only to reorganize the Azad Kashmir forces so as to facilitate the implementation of decisions relating to point 4 (b) of the Commission's resolution of 5 January 1949, the actual implementation of the decisions to start only after parts I and II of the Commission's resolution of 13 August 1948 have been fully implemented.

General provisions (Truce terms, paragraph III F and G)

The Pakistan Government trusts that the Commission will do everything possible for the restoration of human and political liberty in the State in actual practice.

28. *Text of the Letter dated 12 August 1949 from the Secretary-General, Ministry of External Affairs, Government of India G.S. Bajpal addressed to the Chairman of the Commission in answer to the Commission's invitation to a joint political meeting (UN Document No. S/AC.12/242)*

I have the honour to acknowledge receipt of your letter dated the 9th August (annex 27) which was delivered by a member of your staff to the Secretary for Kashmir Affairs, Mr. Vishnu Sahay, that evening.

The Government of India agree to joint meetings at Minister's level of their representatives and representatives of Pakistan under the auspices of the Commission for the implementation of part II of the Commission's resolution of 13 August 1948. As regards the provisional agenda prepared

by the Commission, the Government of India propose the addition of the following items:

- (1) Clarification of A. 3 of part II of the resolution of 13 August as regards (a) local authorities and (b) the surveillance of the Commission.
- (2) The Commission has already accepted the need for a large-scale disbanding and disarming of the "Azad Kashmir" forces. This decision is not open to argument. Steps for its implementation, however, have to be discussed. Measures necessary for disbanding and disarming these forces should, therefore, figure on the agenda.
- (3) In the Prime Minister's letter dated the 20th August 1948, to Mr. Korbel [S/1100, paragraph 80], the subject of the administration and defence of the sparsely populated and mountainous region of the Jammu and Kashmir State in the north was dealt with. It was pointed out in the letter that after Pakistan troops and irregulars have withdrawn from this region—as they have to under the 13th August resolution—the responsibility for its administration would revert to the Jammu and Kashmir Government and that for its defence to the Government of India. It is desirable that the question of the effective discharge of this responsibility should be clarified at the forthcoming conference. Though this is a matter for settlement between the Commission and the Government of India, it is necessary that Pakistan should be made fully aware of its implications.

With regard to the subject-matter of the agenda, the Commission has already reached certain conclusions in respect of some of the items. The large-scale disbanding and disarming of the "Azad Kashmir" forces is an example. The Government of India assume that conclusions of this character will not be thrown open to debate. As I explained to Your Excellency during our conversations when the preliminaries

of the proposed conference were discussed, it is in the interests of the solution of the problem of the truce that the Commission and the Government of India earnestly desire that the Conference should not reopen matters which have already been determined.

The Government of India will be represented at the proposed conference by the Honourable Shri N. Gopalaswami Ayyangar, Minister for Transport and Railways. The date proposed for the opening of the conference, namely the 17th August, will not be convenient since it happens to be the day of an important religious festival, and during the period 13th to 18th August, both dates inclusive, the Constituent Assembly will be in recess and several Members of Government may be out of New Delhi. The Government of India, therefore, suggest that the Conference should begin with effect from Monday, the 22nd August.

In conclusion, I am to explain that it would save time if each Government were informed in advance of the suggestion of the other regarding the agenda. The Government of India suggest, therefore, that the additions to the agenda proposed by them be communicated to the Government of Pakistan.

(Signed) G.S. Bajpai
Secretary-General

29. *Text of the Letter dated 11 August 1949 from the Minister of Foreign Affairs, Government of Pakistan Mr. Zafrulla Khan to the Chairman of the Commission, in answer to the Commission's invitation to a joint political meeting (UN Document No. S/AC.12/241)*

I have the honour to acknowledge receipt of your letter dated 9th August (annex 27) proposing joint meetings at ministerial level of representatives of the Governments of Pakistan and India under the auspices of the Commission for the implementation of part II of the Commission's resolution

of 13th August 1948; the meetings to begin in New Delhi on the 17th August and to be continued according to circumstances in Karachi.

Subject to the following observations regarding the provisional agenda proposed by the Commission, the Pakistan Government agree to the proposed joint meetings:

- (i) In the interest of clarity and precision the headings should be "Provisional agenda for the implementation of part II of the Commission's resolution of 13th August 1948".
- (ii) No provision has been made in the agenda for the implementation of paragraph B 3 of part II of the Commission's resolution of 13th August 1948. Item 5 should therefore be worded as follows: "Implementation of paragraph B 3 of part II of the Commission's resolution of 13th August 1948".
- (iii) With the inclusion in the agenda of the item proposed at (ii) above, all matters included in part II of the Commission's resolution of 13th August 1948 requiring implementation will be provided for. Since the proposed joint meetings will be concerned solely with the implementation of part II of the Commission's resolution of 13th August 1948, item 5 proposed by the Commission, namely, "Related questions" should be deleted. In any case this item is open to objection on the ground that it is vague and indefinite.

(Signed) Zafrulla Khan
Minister of Foreign Affairs and
Commonwealth Relations

30. *Text of the Letters dated 13 August 1949 from the Chairman of the Commission Mr. H. Samner to the Governments of India and Pakistan regarding their replies to the invitation to the joint meeting (UN Document No. S/AC.12/243)*

LETTER TO INDIA

I have the honour to acknowledge receipt of the letter dated 12 August 1949 (annex 28) in which Your Excellency was kind enough to reply to the Commission's letter of the 9th inst. (annex 27) regarding the proposed joint meetings in New Delhi.

Complying with the request of your Government, the Commission is transmitting to the Government of Pakistan the text of Your Excellency's reply. Annexed, for the information of the Government of India, is the text of the reply of the Pakistan Government.

The Commission trusts that the Government of Pakistan will accept Your Excellency's suggestion that the conference begin with effect from Monday, 22 August. The Commission has requested the Government of Pakistan to communicate the composition of its delegation to the joint meetings. As soon as this information is received it will be forwarded to Your Excellency.

The suggestions of your Government and the observations of the Government of Pakistan concerning the provisional agenda can be examined in the consideration of the adoption of the agenda, following the terms of paragraph 7 of the Commission's letter dated 9 August.

The Commission is pleased to note that the Honourable Shri N. Gopalaswami Ayyangar is heading the Indian delegation to the meetings. The Commission would be grateful to be informed as soon as possible of the further composition of the delegation.

(Signed) Hernando Samper
Chairman

LETTER TO PAKISTAN

I have the honour to acknowledge receipt of the letter dated 11 August 1949 (annex 29) in which Your Excellency

was kind enough to reply to the Commission's letter of the 9th inst. regarding the proposed joint meetings in New Delhi.

At the request of the Government of India the text of its reply to the Commission's invitation is annexed. The text of the reply of Your Excellency's Government is likewise being communicated to the Government of India.

It will be noted that the Government of India proposes that the conference should begin with effect from Monday, 22 August. The Commission trusts that this date will be agreeable to Your Excellency's Government.

The observations of your Government and the suggestions of the India Government concerning the provisional agenda can be examined at the time of the discussion of the adoption of the agenda, following the terms of paragraph 7 of the Commission's letter dated 9 August.

The Commission would be glad to know as soon as possible the composition of the Pakistan delegation to the meeting in order to communicate it to the Government of India.

(Signed) Hernando Samper
Chairman

31. *Text of the Letter dated 18 August 1949 from the Secretary-General, Ministry of External Affairs, Government of India Mr. G.S. Bajpai addressed to the Chairman of the Commission, concerning the proposed joint meeting (UN Document No. S/AC.12/245)*

I have the honour to acknowledge the receipt of your predecessor's letter dated the 13th August 1949 (annex 30). It would appear from the Pakistan Foreign Minister's letter to him, dated the 11th August (annex 29), that the Pakistan delegation do not wish to include, in the agenda of the proposed conference:

- (1) Measures necessary for disbanding and disarming the so-called "Azad Kashmir" forces, and
- (2) The subject of the administration and defence of the sparsely populated and mountainous region of the Jammu and Kashmir State in the north.

While the Government of India have no strong objection to the suggestion in paragraph 4 of your predecessor's letter, namely that the suggestions of my Government conveyed in my letter No. 528-PASG/49, dated the 12th August 1949 (annex 28), be examined in the consideration of the adoption of the agenda, I wish to point out that we consider the inclusion in the agenda of the two items just mentioned as essential.

Besides the Honourable Shri N. Gopalaaswami Ayyangar, who will lead it, the Indian delegation will consist of Mr. Vishnu Sahay, two military officers and myself. The names of the two military officers will be communicated to Your Excellency as soon as possible.

(Signed) G.S. Bajpai

32. Text of the Letter dated 16 August 1949 from the Minister for Foreign Affairs, Government of Pakistan Mr. Zafarulla Khan addressed to the Chairman of the Commission concerning the proposed joint meetings (UN Document No. S/AC.12/244)

I have the honour to acknowledge receipt of your letter dated the 13th August 1949 (annex 30), forwarding a copy of the Government of India's letter dated the 12th August 1949 (annex 28), and suggesting postponement of the joint truce talks from the 17th to 22nd August 1949.

We had made all plans to leave for New Delhi on 16th August and postponed our previous engagements to later dates. The proposed postponement of the joint truce talks to the 22nd August would therefore greatly inconvenience our

delegation. In deference, however, to the wishes of the Government of India and of the Commission we agree to the revised date proposed for the start of the conference.

The Pakistan delegation will consist of the following: (1) Minister for Foreign Affairs and Commonwealth Relations (Leader); (2) The Honourable Mr. M.A. Gurmani (Minister for Kashmir Affairs); (3) Mr. Mohammad Ali, Secretary General; (4) Major General Nazir Ahmad; (5) Brigadier M. Sher Khan; (6) Mr. M. Ayub; (7) Mr. A.A. Khan. The composition of our delegation has already been intimated to the Government of India.

In their letter dated the 12th August, 1949, the Government of India have suggested the addition of three items to the provisional agenda, two of which, viz., those relating to the disbanding and disarming of Azad Kashmir forces and the transfer of military and administrative control over the northern areas to the Government of India and the Maharaja's Government respectively, are extraneous to part II of the Commission's resolution of 13 August 1948, and should therefore not be included in the agenda of the Conference convened for the implementation of part II of the Commission's resolution of 13 August 1948 (vide paragraph 4 of your letter dated the 9th August 1949 [annex 27]).

The Commission is well aware of Pakistan's views with regard to the two additional items, to which objection has been taken above, but for convenience of reference these might be briefly recapitulated.

(a) *Azad Kashmir forces*—The Commission's resolution of 13th August 1948 provides for the withdrawal of the Pakistan Army and of the bulk of the Indian Army but makes no mention of the Azad Kashmir forces. In paragraph 2 (c) of its letter dated 19th September 1948 [S/1100, paragraph 108], the Commission gave a categorical assurance to the Pakistan

Government that the resolution of 13th August "does not contemplate the disarmament or disbanding of Azad Kashmir forces". While explaining clause 4 of the Commission's proposals of 11th December 1948 [S/1196, annex 3], relating to the plebiscite stage, Mr. Lozano is reported to have told the Prime Minister of India on 20th December 1948 that it was the Commission's intention that there should be large-scale disarming of Azad Kashmir forces. Mr. Lozano assured me on 25th December 1948, that the disarming and disbanding of Azad Kashmir forces would take place only at the plebiscite stage and along with final disposal of the Indian and Kashmir State forces as envisaged in clause 4 of the Commission's proposals of 11th December 1948. He added that the exact scope of this reduction of the forces on both sides would be determined by the Commission and the Plebiscite Administrator in consultation with the authorities concerned. This was reaffirmed by Mr. Lozano and yourself on 8th February 1949, when you agreed that it was not the Commission's intention that the Azad Kashmir forces should be disarmed during the truce period. The minutes of the meeting of 8th February 1949 (annex 1), were communicated by the Commission to the Government of India, and in his letter dated 18th February 1949 (annex 7), Sir Girja Shankar Bajpai recognized that the disarming of Azad Kashmir forces was really a matter of chronology and would arise only after parts I and II of the Commission's resolution of 13 August 1948 had been implemented.

In view of these considerations the question of disbanding and disarming of Azad Kashmir forces cannot be discussed during the forthcoming truce talks. It can only be discussed after the appointment to office of the Plebiscite Administrator along with the disposal of India and Kashmir State forces on the Indian side of the cease-fire line, as provided for in clause 4 of the Commission's resolution of 5th January 1949.

(b) Northern areas—As explained in paragraph 6 of our letter dated the 30th May 1949, the claim of the Government of India to military and administrative control over the

"northern areas" is contrary to the clear provisions of clause B.2 of part II of the Commission's resolution of 13th August 1948 [S/1100, paragraph 90], and paragraph 4 (d) of the Commission's letter dated 28th April 1949 (annex 23). According to these documents the "evacuated territory" will be administered by the "local authorities", and no official of either the Government of India or the Maharaja's Government will be permitted to enter the "evacuated territory". After the withdrawal of the bulk of the Indian forces the balance of the Indian forces will have to remain even during the truce period "within the lines existing at the moment of the cease-fire" as provided in clause B.2 of part II of the 13th August resolution. There is no conceivable justification for the posting of any Indian troops in the areas north of the cease-fire line, the defence of which has hitherto been and will continue to be the responsibility of the local authorities.

We therefore consider that the suggestion contained in paragraph 2, item (3) of the Government of India's letter dated 12th August 1949, is not only outside the scope of the proposed joint truce talks but is contrary to the clear provisions of the 13th August resolution and cannot be entertained.

With regard to paragraph 3 of the Government of India's letter dated 12th August 1949, the Pakistan Government wish to observe that the conclusions of the Commission with regard to the subject-matter of the agenda are contained in the Commission's resolution of 13th August 1948, which have been accepted by the Governments of India and Pakistan. We agree that the provisions of the resolution should not be thrown open to debate, but the contention which the Government of India have put forward regarding the Azad Kashmir forces is incorrect.

The Government of Pakistan wish to reiterate their view that, since the proposed joint meetings will be concerned solely with the implementation of part II of the Commission's resolution of 13th August 1948, the discussion should be

confined to the provisions of this part of the resolution and that no extraneous matters should be introduced in the agenda.

(Signed) Zafrulla Khan

33. *Text of the Telegram dated 10 August 1949 from the Chairman of the Commission Mr. Chyle addressed to the Secretary-General, Ministry of External Affairs, Government of India, and the Minister for Foreign Affairs, Government of Pakistan, withdrawing the Commission's invitation to a joint meeting in New Delhi (UN Document No. S/AC.12/247)*

To prevent further preparation for joint political meeting New Delhi August twenty-second I have the honour to inform Your Excellency that the Commission has decided to withdraw its invitation and therefore the meeting will not take place. Letter follows.

Chyle
Chairman
United Nations Commission
for India and Pakistan

34. *Text of the Letter dated 19 August 1949 from the Chairman of the Commission Mr. O. Chyle addressed to the Secretary-General, Ministry of External Affairs and Commonwealth Relations, Government of India, and the Minister for Foreign Affairs, Government of Pakistan, concerning the proposed joint meetings (UN Document No. S/AC.12/245)*

I have the honour to acknowledge receipt of your letter dated 18 (16) August in which Your Excellency informed the Commission of the Indian (Pakistan) Government's view with regard to the agenda for the proposed joint meetings in New Delhi.

The Commission has also received a letter on the same subject from the Government of Pakistan (India), a copy of which is enclosed with this letter.

In comparing the two communications and keeping in mind the background of the question, the Commission concludes that the proposed joint meetings would not lead to any positive results.

Under these conditions, and taking into account your Government's preoccupation concerning the consequence of a possible failure of such meetings, the Commission feels obliged to abandon the idea of the proposed joint meetings. I had the honour to inform Your Excellency to that effect by telegram last evening.

The Commission is now considering the situation which has arisen as a result of the position adopted by the two Governments concerning the implementation of the truce agreement.

A similar communication is being sent to the Government of Pakistan (India).

(Signed) O. Chyle
Chairman

35. Text of the Memorandum approved by the Commission at its 6th meeting on 26 August 1949 (UN Document No. S/AC. 12/251)

The United Nations Commission for India and Pakistan has given long and intensive study to the replies of the Governments of India and Pakistan of 18 and 30 May 1949, respectively, to the Commission's Truce Terms of 28 April, as well as to the letter of the Government of India of 17 June and the results of the consultations between representatives of the Commission and the Government of Pakistan in Karachi, 25 to 28 June 1949. As the two Governments are aware, the Commission has recognized that neither Government has found it possible to give to the truce terms the unreserved acceptances requested by the Commission.

The Commission subsequently decided to seek to bring about agreement on a cease-fire line through meetings of the

military representatives of the two Governments. The Commission is highly gratified that these meetings, held in Karachi from 18 to 28 July 1949, resulted in the definition of an agreed cease-fire line, thus completing the implementation of part I of the resolution of 13 August 1948.

Hopeful that the success of the meetings of the military representatives held in Karachi presaged a new and more suitable opportunity for both Governments to agree on the problem relating to the implementation of part II of the Commission's resolution of 13 August 1948, the Commission invited the Governments of India and Pakistan to send representatives to meet together under the auspices of the Commission. In view of the letters of reply from both Governments (annexes 28 and 29), wherein they reaffirmed their opposed position with respect to the provisional agenda, the Commission felt constrained to withdraw its invitation for the reasons expressed in its letter of 19 August 1949 (annex 34).

The implementation of part II of the Commission's resolution of 13 August 1948 remains unaccomplished. The Commission strongly feels that early and definitive action in this regard is desirable, and has no doubt that both Governments share this view. The Commission remains convinced of the sincere desire of both Governments to solve the Kashmir problem by peaceful means and of their firm intention to fulfil the commitments they have entered into in this regard.

The Commission has, therefore, in the light of existing circumstances, decided to ask both Governments whether they will agree to the course of action outlined below for the conclusion of the truce:

(i) The two Governments agree:

(a) That they will submit to arbitration the differences existing between them concerning all questions raised by them regarding the

implementation of part II of the resolution of 13 August 1948, the Arbitrator to decide these questions according to equity, and his decisions to be binding on both parties;

- (b) That the arbitration will terminate once the truce terms are decided upon;
- (c) That United States Fleet Admiral Chester W. Nimitz will be the Arbitrator;
- (d) That the procedure for the arbitration will be worked out subsequently;
- (e) That since the procedure of arbitration will be limited to the conclusion of a truce the Commission will continue in the exercise of its functions. Upon an arbitral decision the Commission will undertake the tasks assigned to it under the truce and under the resolution of 5 January 1949.

- (ii) With reference to paragraph (i) (d), above, the Commission considers that it would be inappropriate, in advance of approval by the parties of the proposed course of action and of the person of the arbitrator, to seek to define the exact procedure to be followed.

The Commission recommends this course of action as an effective means of overcoming the obstacles which have so far stood in the way of implementation of the truce agreement. If it is accepted by the two Governments the Commission is confident that the implementation of the truce agreement will be speedily begun and that the Commission and the two Governments be placed in a position to pursue their respective tasks leading to the final settlement of the problem, the continued existence of which is a source of grave concern not only to both Governments, but also to the other Member States of the United Nations.

The Commission requests that, after your Government has given the matter its careful and deliberate consideration, it may be favoured with a written reply.

36. *Text of the Letter dated 8 September 1949 from the Secretary-General, Ministry of External Affairs, Government of India Mr. G.S. Bajpal addressed to the Chairman of the Commission regarding the Commission's Memorandum on arbitration (UN Document No. S/AC. 12/262)*

As requested in the concluding paragraph of the memorandum (annex 35) that you gave me on the 30th August on behalf of the United Nations Commission for India and Pakistan, I am communicating to you, in writing, the views of my Government on the suggestion for arbitration described in paragraph 5 of the memorandum.

According to sub-paragraph (i) (a) of paragraph 5, the two Governments are requested to agree that "they will submit to arbitration the differences existing between them concerning all questions raised by them regarding the implementation of part II of the resolution of 13 August 1948, the arbitrator to decide these questions according to equity, and his decisions to be binding on both parties". In the course of the conversation that I had with Your Excellency and Ambassador Colban on the 30th August, I asked two questions:

- (i) Whether the Commission would state to the arbitrator the points submitted to arbitration; and
- (ii) Whether the Commission would furnish to the arbitrator a clear account of the circumstances leading up to the present position and the Commission's own conclusions on points like the disbanding and disarming of the "Azad Kashmir" forces on which it had already reached a conclusion.

In answer to the first question, Your Excellency said that the Commission would prefer both parties to accept the

wording of 5 (i) (a) and to present to the arbitrator the specific points on which they seek his decision. It would then be for the arbitrator to decide whether the issues raised by each party were germane to the truce or not. About the second question, Your Excellency explained that the Commission was now approaching the problem from an entirely new angle and entirely afresh. Therefore, it did not wish to go into the past. Each party must state its own view, in their historical context, on the points that may be referred to arbitration.

The effect of the explanation given by Your Excellency in answer to my first question would be that the arbitrator would be free to determine the points on which he should arbitrate. So far as the Government of India are aware, this procedure is novel and without precedent, and could hardly be justified.

As regards the answer to the second question, the Government of India can only express their surprise and disappointment at the attitude of the Commission. Apart from either party setting out its own version of past events, it would have been just and proper if the Commission, which has dealt with the matter during all these months, gave an impartial and authoritative account of the facts which are within its knowledge and of the assurances given to us. The truce proposals, embodied in part II of the Commission's resolution of 13th August 1948, cannot be divorced either from the events and discussions that preceded the acceptance by the Government of India of that resolution or the events and negotiations that have followed since. The presence of Pakistan troops in the territory of Jammu and Kashmir, which the Commission described as constituting "a material change in the situation since it was represented by the Government of Pakistan before the Security Council" [S/1430, paragraph 132], is only one instance of Pakistan's aggression in the State of Jammu and Kashmir, which, by reason of its accession to India—accession the legality of which the Commission has not questioned and which is in fact and law beyond question—is

part of India. The aggression began with the invasion of the State by tribesmen and other Pakistan nationals whom Pakistan aided and abetted. It has continued ever since, not only by reason of the entry of Pakistan regular forces into Jammu and Kashmir but by the waging of war by Pakistan against Indian and State forces, the enlargement and organization of the so-called "Azad Kashmir" forces under the operational command of the Pakistan Army, and the penetration of Pakistan troops into the thinly populated and mountainous territory in the north of the State. Pakistan's spirit of aggression has been further repeatedly manifested in the refusal even to discuss the disbanding and disarming of the Azad forces, whose strength constitutes a menace, as was pointed out to Mr. Lozano during his conversations with the Prime Minister last December, to the security of the portion of the State now under Indian control and an obstacle to the holding of a free and impartial plebiscite. The same conclusion can be drawn from Pakistan's claim, put forward in the correspondence with the Commission regarding the conference which the Commission recently decided to abandon, that the sparsely populated and mountainous region in the north of the State should be treated in exactly the same manner as the so-called "Azad Kashmir" area referred to in paragraph A. 3 of part II of the Commission's resolution of 13th August. The Commission will note that this latest claim of Pakistan renders nugatory the assurance given by the Commission in Mr. Korbel's letter of 25th August 1948 to the Prime Minister [S/1100, paragraph 81] that the problem of administration or defence in this large area "could be considered in the implementation of the resolution".

The Government of India have repeatedly affirmed, before the Commission and elsewhere, that no settlement of the dispute over Jammu and Kashmir could be either just or lasting which did not take into account the moral element inherent in an act of aggression. This is as true of a settlement of the dispute over the truce terms as of the overall dispute about the future of the State. The throwing open of the whole of this issue to debate before the arbitrator would, in the

absence of an objective statement by the Commission of all relevant facts, inevitably prolong the proceedings and thus indefinitely postpone "that early and definitive action" to implement part II of the resolution of 13th August 1948 which the Commission and the Government of India desire.

In the Government of India's view, the attitude of the Government of Pakistan towards the large-scale disbanding and disarming of the "Azad Kashmir" forces is a fatal obstacle to the bringing about of the peaceful conditions required for a plebiscite. According to our understanding, Pakistan's contention is that, since no reference is made to such disbanding and disarming in part II of the resolution of 13th August, this matter cannot even be discussed in considering the implementation of part II of the resolution of 13th August. But the Government of Pakistan forget that before they agreed to accept that resolution, this matter was discussed between us and the Commission and we were given a specific assurance on behalf of the Commission that large-scale disbanding and disarming of "Azad" forces would take place. When discussing the proposals presented by the Commission to the representatives of India and Pakistan in Paris on the 11th December 1948 with Mr. Lozano on the 20th and 22nd December 1948, the Prime Minister drew attention to the fact that the "Azad Kashmir" forces which had been armed and equipped by Pakistan and were under the operational command of the Pakistan Army ran into tens of thousands, that their presence in the territory referred to in paragraph A. 3 of part II of the resolution of 13th August, even after demobilization, would be a constant threat to the territory under the control of Indian and State forces, a deterrent to the return of many refugees, and thus, an obstacle to the free expression of opinion regarding the future of the State by a substantial number of persons normally resident in the area concerned. For the purpose of ensuring the security of the State, the Government of India have, in all their discussions with the Commission about the truce, insisted upon the inter-dependence of the phasing of the withdrawal of their forces from the State under paragraph B. 1 of part

II of the resolution of 13th August and the adoption of measures to implement the Commission's intention "that there should be large-scale disarming of these (the "Azad" forces) [S/1196, annex 4]. Such disbanding and disarming is also essential to the holding of a free and impartial plebiscite for reasons which were explained to Mr. Lozano by the Prime Minister in the course of their conversations held on the 20th and 22nd December 1948. Mr. Lozano recognized the force of the Prime Minister's argument on this point and disclosed to us that the intention of the Commission was that there should be a large-scale disbanding and disarming of the "Azad Kashmir" forces. To allow an assurance of this kind to be reopened even to the extent of placing this disbanding and disarming on the same level with the geographical disposition of the Indian and State forces left in the State, will be to retire from a position reached between us and the Commission. If the arbitrator is free to decide that there should be no disbanding and disarming of these forces, there could be no fair and impartial plebiscite. If, while accepting the need for such disbanding and disarming, the arbitrator is free to postpone consideration of the matter until after the bulk of Indian forces in the State of Jammu and Kashmir has been withdrawn, the security of the State will be in great jeopardy during the period that intervenes between the withdrawal of the bulk of the Indian forces and the adoption of measures for the large-scale disbanding and disarming of the "Azad Kashmir" forces. As has been frequently explained to the Commission, the Government of India cannot possibly take this risk, which would be incompatible with their paramount responsibility to protect the portion of the State under their control against a repetition of the horrors of the invasion of the State in October 1947.

Since the assurance about the disbanding and disarming of the "Azad Kashmir" forces was given on behalf of the Commission to the Government of India, it is understood that the number of these forces has grown considerably. A new situation has thus been created of greater peril to the State and their disbandment has become even more necessary. For

all practical purposes, the "Azad Kashmir" forces are a part of the regular Pakistan Army, trained by that Army and under its operational control. A withdrawing aggressor cannot, in reason, proffer any claim for leaving behind him 32 battalions or more, trained and equipped by him and ready for battle.

The Government of India are convinced, therefore, that this outstanding issue of the large-scale disbanding and disarming of the "Azad Kashmir" forces is not a matter for arbitration but for affirmative and immediate decision. Once ways and means for the large-scale disbanding and disarming of the Azad forces have been agreed upon, the Government of India anticipate no difficulty in reaching agreement with the Commission as provided for in paragraph B. 1 of part II of the resolution of 13th August 1948, about the phasing of the withdrawal of their forces from the State. Nor would they raise any objection to the Pakistan Government being informed of the programme of the withdrawal of Indian forces, once the question of the disbanding and disarming of the Azad forces has been disposed of and Pakistan has begun to withdraw its forces.

To sum up, my Government cannot reasonably be expected to accept a suggestion for arbitration which leaves it to the arbitrator to determine the points on which he should arbitrate and which does not provide for the submission to him, by the Commission, of its own appreciation of the events leading up to the present situation or of the observance by himself the assurances which it has given. The Government of India's main objection, however, to the present suggestion for arbitration is that, as explained in paragraphs 6 and 7, of this letter, the principal issue is one which cannot be solved by arbitration, it follows that they cannot accept the suggestion incorporated in 5 (i) (a) of the memorandum that you left with me on the 30th August (annex 35). Since that suggestion is not acceptable, it is unnecessary to express any views on the other suggestions in this paragraph, which are subsidiary.

While unable to agree to the course of action outlined in paragraph 5 of the memorandum, my Government wish to make it clear that they are not opposed to arbitration in principle. Arbitration is, under Article 33 (1) of the Charter of the United Nations, one of the methods of achieving a peaceful solution of a dispute which is likely to endanger the maintenance of international peace and security. India has subscribed to the Charter and is a firm believer in the principles embodied therein. The reference to arbitration should, however, be on a precise and defined issue which, if settled by this method, will have the effect of creating conditions for ending a dispute that threatens international peace and security. In any case, India does not wish this or any other dispute to be settled by the sword. She will always be ready to consider any method of solution that would lead to a peaceful settlement of the entire dispute.

In conclusion, I am to explain that the Government of India still hold that the people of Jammu and Kashmir should decide their future of their own free-will. They firmly stand by that offer, and shall be ready to leave the question of the continued accession of Jammu and Kashmir State to India to the people of the State, to be decided through the democratic method of a free and impartial plebiscite, provided that the conditions necessary for making the plebiscite really "free and impartial" are created. This, as they have endeavoured to explain on this and on previous occasions will be impossible, if the Commission's assurances in this behalf are not implemented.

(Signed) G.S. Bajpai
Secretary-General

37. *Text of the Letter dated 7 September 1949 from the Minister for Kashmir Affairs, Government of Pakistan, Mr. M.A. Gurmani addressed to the Chairman of the Commission regarding the Commission's memorandum on arbitration (UN Document No. S/AC. 12/261)*

I have the honour to refer to the memorandum (annex 35)

handed by you on behalf of the Commission to the Pakistan Foreign Minister on the 29th August 1949, and to state that the Pakistan Government agree to the course of action proposed by the Commission in paragraph 5 of the memorandum for implementing part II of the Commission's resolution of 13th August 1948.

(Signed) M.A. Gurmani

38. *Text of the Letter dated 10 September 1949 from the Chairman of the Commission Mr. R.B. Macatee addressed to the Secretary-General, Ministry of External Affairs, Government of India, regarding the Commission's Memorandum on arbitration (UN Document No. S/AC. 12/263)*

I have the honour to acknowledge the receipt of your letter dated 8 September 1949 (annex 36), in which Your Excellency communicate to the Commission the views of your Government on the suggestion for arbitration as contained in the Commission's memorandum delivered on 30 August 1949 (annex 35).

The Commission is concerned to note that the nature of your Government's reply appears to have been determined by considerations arising out of two questions about which there seems to be some misunderstanding, namely:

- "(i) Whether the Commission would state to the arbitrator the points submitted to arbitration; and
- "(ii) Whether the Commission would furnish to the arbitrator a clear account of the circumstances leading up to the present position and the Commission's own conclusions on points like the disbanding and disarming of the "Azad Kashmir" forces on which it had already reached a conclusion."

Since the Commission finds that your Government's interpretation, as stated in the observations set forth in Your Excellency's letter, does not exactly reflect the intention of

the Commission, it is reluctant to consider that reply as a final one and therefore begs to convey the following comments which, the Commission trusts, will provide a more accurate understanding of its views.

As regards the first question, Your Excellency will note that sub-paragraphs (i) (d) and (ii) of paragraph 5 refer to procedure and indicate that this is a matter which should be decided upon subsequently. The Commission is of the opinion that it would be preferable first to have the Government's acceptance of the course of action as presented, and then to consult with them regarding the several methods which might be agreed upon for the further procedure. The procedure inherent in Your Excellency's question is one of these and is, consequently, not precluded.

As regards the second question, the Commission wishes to assure Your Excellency that it will of course be at the disposal of the arbitrator and present him with a full account of the facts which are within its knowledge.

In suggesting arbitration as a means of reaching a prompt and effective implementation of the truce, the Commission has never intended that the commitments entered into for a peaceful solution of the dispute should be disregarded. The objective of a free and impartial plebiscite and the principles relating to the conditions which must be created in order that it be truly free and impartial, remain unquestioned.

In this connexion Your Excellency has referred to the disarming and disbanding of the "Azad Kashmir" forces. The Commission wishes to point out that both Governments have agreed to a large-scale disbanding and disarming of these forces as one of the conditions precedent to the holding of the plebiscite. The difference which has arisen between the two Governments with respect to decisions on this matter has not been one of substance but of scope, method and timing. Arbitration would apply to this aspect only.

The Commission does not consider it necessary at this time to comment further on your letter.

The Commission hopes that in the light of the foregoing your Government may reconsider the memorandum submitted to your Excellency on 30 August 1949.

(Signed) R.B. Macatee
Chairman

39. *Text of the Letter dated 15 September 1949 from the Secretary-General, Ministry of External Affairs, Government of India Mr. G.S. Bajpai addressed to the Chairman of the Commission, regarding arbitration (UN Document No. S/AC. 12/265)*

I have the honour to reply to Your Excellency's letter, dated the 10th September 1949 (annex 38), which you were good enough to leave with me on the 12th instant.

The Government of India note that, in the view of the Commission, my letter No. 584-PASG/49, dated the 8th September (annex 36), "does not exactly reflect the intention of the Commission", presumably in respect of points (i) and (ii) which are stated in paragraph 2 of your letter, dated the 10 September (annex 38). The Government of India regret that there should have been this misunderstanding. They wish to assure the Commission that they endeavoured to interpret its memorandum (annex 35), which Mr. Chyle delivered on the 30th August 1949, to the best of their ability, with due regard to the language of the memorandum and my understanding of certain elucidations which I sought from Mr. Chyle and Ambassador Colban.

The Government of India have given the fullest consideration to the Commission's memorandum in the light of Your Excellency's letter. I wish to point out, in the first place, that our original reply to the proposal contained in the Commission's memorandum of 30th August 1949 was based not on any minor considerations but on the fundamental condition that the creation of public confidence and of a peaceful atmosphere is a necessary preliminary to preparation

or a plebiscite. This is a condition which both my Government and the Commission have accepted and it cannot therefore be left to the decision of an arbitration.

I shall deal now with paragraph 7 of Your Excellency's letter. As explained in my letter of the 8th September, one of the most important issues, namely that of the large-scale disbanding and disarming of the "Azad Kashmir" forces, is one which cannot be settled by arbitration. To quote from paragraph 6 of that letter:

"For the purpose of ensuring the security of the State, the Government of India have, in all their discussions with the Commission about the truce, insisted upon the inter-dependence of the phasing of the withdrawal of their forces from the State under B. 1 of part II of the resolution of the 13th August and the adoption of measures to implement the Commission's intention "that there should be large-scale disbanding of these (the Azad) forces". Such disbanding and disarming is also essential to the holding of a free and impartial plebiscite for reasons which were explained to Mr. Lozano by the Prime Minister in the course of their conversations held on the 20th and 22nd December 1948. Mr. Lozano recognized the force of the Prime Minister's argument on this point and disclosed to us that the intention of the Commission was that there should be a large-scale disbanding and disarming of the "Azad Kashmir" forces."

Paragraph 7 of Your Excellency's letter of the 10th September states that: "The Commission wishes to point out that both Governments have agreed to a large-scale disbanding and disarming of these forces as one of the conditions precedent to the holding of the plebiscite. The difference which has arisen between the two Governments with respect to decisions on this matter has not been one of substance but of scope, method and timing. Arbitration would apply to this aspect only". In answer to this, I wish to repeat the view expressed by the Government of India in paragraph 6 of my letter of the 8th September, viz., that "If, while accepting

the need for such disbanding and disarming, the arbitrator is free to postpone consideration of the matter until after the bulk of Indian forces in the State of Jammu and Kashmir has been withdrawn, the security of the State will be in great jeopardy during the period that intervenes between the withdrawal of the bulk of the Indian forces and the adoption of measures for the large-scale disbanding and disarming of the "Azad Kashmir" forces. As has been frequently explained to the Commission, the Government of India cannot possibly take this risk, which would be incompatible with their paramount responsibility to protect the portion of the State under their control against a repetition of the horrors of the invasion of the State in October 1947", especially when, according to their information, the number of these forces has grown considerably. The Government of India, therefore, maintain that the large-scale disbanding and disarming of the "Azad Kashmir" forces on which, apart from other considerations, depends the phasing of the withdrawal of Indian forces under B. 1 of part II of the resolution of the 13th August 1948, is no more a matter for arbitration than the complete withdrawal of the Pakistan forces. Any lack of certainty on this issue would open the door to the aggressor to benefit by his aggression.

Paragraph 4 of your Excellency's letter refers to subparagraphs (i) (d) and (ii) of paragraph 5 of the Commission's memorandum, and Your Excellency was good enough to explain that the question as to what the points for arbitration should be would be dealt with, as a matter of procedure, in consultation with the two Governments. Explaining the Commission's intentions in this regard further, Your Excellency said that if, as a result of these consultations, the two Governments could not reach agreement on the points to be referred for arbitration, arbitration would be regarded as having failed. In the Government of India's view, the process of consultation with the two Governments to determine the points of reference to arbitration should precede and not follow acceptance of the proposal for arbitration. Since whether or no arbitration takes place will depend upon

agreement between the two Governments upon the points to be referred to arbitration, this would be the more logical and appropriate course. It is also in conformity with the accepted procedure in respect of arbitration.

The Government of India do not feel called upon at this stage to comment upon the choice of an arbitrator. The stage for that will be after the points for arbitration have been precisely defined and accepted by the Governments of India and Pakistan.

(Signed) G.S. Bajpai

40. *Text of the Letters dated 19 September 1941 from the Chairman of the Commission Mr. R.B. Macatee addressed to the Secretary-General, Ministry of External Affairs, Government of India, and to the Minister for Kashmir Affairs, Government of Pakistan, regarding arbitration (UN Document No. S/AC. 12/268)*

LETTER TO INDIA

The Commission has the honour to acknowledge receipt of your letter of 15 September 1949 (annex 39) in answer to the Commission's letter of 10 September (annex 38) concerning the suggestion for arbitration contained in the Commission's memorandum delivered to you on 30 August (annex 35).

In the light of that letter and your Excellency's letter of 8 September 1949 (annex 36), the Commission understands that the Government of India is unable to accept the course of action suggested in that memorandum.

In these circumstances the Commission has decided, under its terms of reference, to report to the Security Council its activities on the sub-continent since its last interim report.

The Commission intends to leave the sub-continent in the very near future. The Military Adviser and the Military Observers will, of course, remain and pursue their normal activities.

Before the Commission leaves, it hopes to have the pleasure of calling on your Excellency to express its appreciation for the courtesy extended to it during its stay on the sub-continent.

(Signed) R.B. Macatee
Chairman

LETTER TO PAKISTAN

The Commission has the honour to acknowledge receipt of your Excellency's letter of 7 September 1949 (annex 37) concerning the suggestion for arbitration contained in the memorandum handed to the Pakistan Foreign Minister on 29 August 1949 (annex 35).

The Commission notes with satisfaction that your Government has agreed to the course of action proposed by the Commission in paragraph 5 of that memorandum.

The Commission has also received an answer from the Indian Government (annex 36) to an identical memorandum handed to Sir Girja Bajpai, Secretary-General, Government of India. It appears from this answer that the Government of India is unable to accept the course of action suggested.

In these circumstances, the Commission has decided, under its terms of reference, to report to the Security Council on its activities on the sub-continent since its last interim report.

The Commission intends to leave the sub-continent in the very near future. The Military Adviser and the Military Observers will, of course, remain and pursue their normal activities.

Before the Commission leaves it hopes to have the pleasure of calling on your Excellency's Government to express its appreciation for the courtesy extended to it during its stay on the sub-continent.

(Signed) R.B. Macatee
Chairman

41. *Text of the Press release issued on 22 September 1949 by the UNCIP Commission on the occasion of its departure from the sub-continent (UN Document No. S/AC.12/269)*

The United Nations Commission for India and Pakistan has notified the Governments of India and Pakistan of its decision to leave the sub-continent to prepare a report to the Security Council.

Throughout its negotiations with the Governments of India and Pakistan, the Commission has been reluctant to give publicity to its conversations and proposals in the belief that its task could best be accomplished through the exercise of discretion. The Commission, however, has observed that there has been some misunderstanding in the Press as to the sequence of events and the nature of the clarifications on its resolutions which have been given to both Governments. The Commission believes it important to issue a statement which might help to correct these misunderstandings.

A clear view of the present situation can best be obtained by summarizing the three major phases of the Commission's activities.

Under the terms of reference of the Security Council's resolution of 21 April 1948 [S/726], which was not accepted by either party and whose most immediate aim was to establish law and order of the State of Jammu and Kashmir, the Commission arrived on the sub-continent in July of last year. Throughout six weeks of separate consultations with the Governments of India and Pakistan the Commission sought an agreement to a cease-fire. The Government of Pakistan envisaged an unconditional cease-fire leading to a final settlement, whereas the Government of India was reluctant to consider the conditions for such a settlement until the Pakistan troops and nationals who had entered the State for the purpose of fighting had withdrawn from the State. In order to bridge the gap, the Commission drew up its resolution of 13 August 1948.

The resolution envisaged three related but distinct steps: a cease-fire, a truce period, during which the withdrawal of forces would take place, and finally, consultations to establish the conditions by means of which the free will of the people of the State would be expressed. The Government of India accepted the Commission's resolution. The Government of Pakistan attached conditions—mainly relating to part III of the resolution—which the Commission was forced to conclude were tantamount at that stage to a refusal. It should be borne in mind that of the problems which have since become obstacles to the implementation of the truce two were not dealt with in the resolution: provisions for the administration and defence of the sparsely populated and mountainous region to the north and the question of the disarming and disbanding of the Azad Kashmir forces.

The second phase of the Commission's activities began when, on its arrival in Paris in November 1948 to report to the Security Council, the Commission renewed conversations with representatives of India and Pakistan. From these conversations it appeared that agreement might be possible on principles relating to the holding of a plebiscite in the State. The Commission requested one of its members, Mr. Lozano, to proceed to the sub-continent in order to confer with the two Governments. The Governments of India and Pakistan agreed to the principles—the details to be worked out in later consultations—which were embodied in the resolution of 5 January 1949. Aide-memoire of the conversations were drawn up [S/1196, annexes 4 and 5].

It is important to keep in mind that these conversations related exclusively to an elaboration of part III of the resolution of 13 August 1948. Parts I and II were not affected.

It was at this stage that assurances were given with respect to the Azad Kashmir forces in relation to the final disposition of all forces throughout the State. In the aide-memoire of the conversations with the Prime Minister of India Pandit Nehru [S/1196, annex 4], and the Foreign Minister of

Pakistan, Sir Mohammad Zafrulla Khan [S/1196, annex 5], it is stated that there would be a large-scale disbanding and disarming of these forces as a precedent to the holding of a plebiscite.

When the Commission in February 1949 returned to the sub-continent the cease-fire was in effect, and in so far as part I of the 13 August resolution was concerned there remained only the demarcation of the line on the ground. The Commission was hopeful that this would be expeditiously achieved and that a prompt implementation of the truce under part II might take place.

The third phase of the Commission's activities began in February, when it was requested by both Governments to furnish additional explanations of its resolutions, and, in turn, was apprised of their views on the truce.

After a series of separate negotiations, from which it appeared that the Governments were not likely to agree directly between themselves, the Commission formulated its own compromise suggestions for the establishment of a truce agreement. On 15 April it submitted to the Governments of India and Pakistan its first truce proposals (annex 17).

The Commission, in the light of the reactions of the two Governments, modified its truce proposals and submitted them to the two Governments on 28 April with the request that they be accepted unreservedly (annexes 21, 22, 23). On 18 and 30 May 1949, the Commission received the replies of the Governments of India and Pakistan respectively. Neither reply constituted an unreserved acceptance.

The Commission made a further attempt to narrow the differences between the two Governments. These were principally connected with the schedule of withdrawal of troops, the status of the Azad Kashmir forces, and the question of the mountainous, sparsely populated northern areas in the State of Jammu and Kashmir. The positions taken by the two Governments, however, remained far apart.

Confronted with these opposed views, the Commission suggested that, as the demarcation of a cease-fire line remained a pressing need, then the military aspect should be separated from the political for the purpose of arriving at an agreement on such a line. It invited the two Governments to send military representatives to a meeting in Karachi with the Commission's Truce Sub-Committee on 18 July 1949. Agreement was reached on 28 July on the entire cease-fire line, and was ratified without delay by both Governments.

In view of the cordial atmosphere which prevailed during the meeting with the Truce Sub-Committee, the Commission hoped that the two Governments might be ready to meet under the auspices of the Commission to settle their remaining differences concerning the truce. The two Governments were invited to a joint meeting in New Delhi on 22 August. In accepting this procedure, the Governments of India and Pakistan asked the Commission to draw up a provisional agenda for their consideration and to furnish them with background knowledge of each other's views. Their comments on this agenda made it clear that the positions still remained fundamentally opposed. While one Government maintained that certain issues could not be discussed or entertained, the other insisted that inclusion in the agenda of precisely these issues was essential. The Commission therefore felt that as a responsible body it could not continue to sponsor a conference which appeared bound to fail at the outset. It informed both Governments to that effect on 18 August (annex 33).

Concluding that the possibilities of its further mediation, restricted by previous commitments in a changing situation, had been exhausted, the Commission decided to ask both Governments whether they would agree to submit to arbitration the differences concerning questions raised by them regarding the implementation of the truce. The Government of Pakistan agreed to the Commission's suggested course of action while the Government of India found itself unable to accept.

Throughout its negotiations the Commission has always been consistent in its policy and has strictly avoided giving any assurance to one Government without informing the other. Its forthcoming report to the Security Council will make the entire position clear.

The Commission reaffirms its belief that a peaceful solution of the present situation in Kashmir will be reached and leaves India and Pakistan in the hope that its report to the Security Council will further this purpose.

42. Text of the Letter dated 1 October 1949 from the Minister for Kashmir Affairs, Government of Pakistan Mr. M.A. Gurmani addressed to the Chairman of the Commission concerning released documents on arbitration (UN Document No. SIAC.12/276)

I have the honour to refer to the documents released by the Commission on 23rd September 1949, concerning the Commission's proposal for arbitration and the statement released to the press by the Commission on 22 September 1949, reviewing its activities in the Indo-Pakistan sub-continent (annex 41).

The Government of Pakistan note the Commission's statement in paragraph 6 of its letter dated 10 September 1949 to the Secretary-General of the Government of India (annex 38) to the effect that: "In suggesting arbitration as a means of reaching a prompt and effective implementation of the truce, the Commission has never intended that the commitments entered into for a peaceful solution of the dispute should be disregarded. The objective of a free and impartial plebiscite and the principles relating to the conditions which must be created in order that it be truly free and impartial, remain unquestioned."

The Government of Pakistan are of the same opinion, and regard a free and impartial plebiscite to determine whether the State of Jammu and Kashmir should accede to Pakistan or to India as the only basis for a peaceful solution of the

Kashmir dispute. This objective can be achieved only if both parties to the dispute faithfully implement their obligations under the Commission's resolutions of 13 August 1948 and 5 January 1949, which after having been accepted by the Governments of India and Pakistan constitute an international agreement. The Pakistan Government reaffirm once again their desire and determination to implement their obligation under both these resolutions, and trust that the Commission and the Security Council would call upon the Government of India to do the same.

The Commission has already been fully apprised of the point of view of the Government of Pakistan on the various issues which have stood in the way of truce agreement. I find it nevertheless necessary to make certain observations on some of the statements made in Sir Girja Shankar Bajpai's letters dated the 21 August and 8 and 15 September 1949 (annexes 36 and 39). The Pakistan Government note with regret that the Government of India have thought fit to repeat allegations and insinuations against the Pakistan Government which were found to be baseless and unfounded in the course of the prolonged debates in the Security Council from January to April 1948. It is even more regrettable that in dealing with issues such as those relating to the Azad Kashmir forces and the northern areas of Jammu and Kashmir, the Government of India have tried to go back upon the position taken up by them in the past before the Commission, and to place in jeopardy the whole structure of a peaceful settlement worked out with such assiduous care and effort by the Security Council and the Commission.

In his letter dated 8 September 1949 (annex 36), Sir Girja Shakar Bajpai has accused Pakistan of aggression against the State of Jammu and Kashmir on the basis of India's contention that the State had acceded to India and was a part of India. The Commission is well aware of the history of the dispute in Kashmir which from the very beginning has centred round the question whether the State should accede to Pakistan or to India. The overwhelming majority of the

people of the State desired to accede to Pakistan in view of the geographical, cultural and economic unity of the State with Pakistan, and demonstrated this desire in no uncertain terms, immediately on the establishment of Pakistan. Although the Hindu Maharaja entered into a standstill agreement with Pakistan on 15th August 1947, in respect of all subjects hitherto dealt with by the British Government of India, he sought by force and fraud to bring about the accession of the State to India. In pursuance of this design a campaign of terror and intimidation was started in August 1947, on the model of the happenings in East Punjab and East Punjab States such as Patiala and Kapurthala. This led to a revolt in the State, and fighting broke out on a large scale between the people of the State and Maharaja's force in September 1947. Events followed with extreme rapidity. Towards the end of October, a contingent of tribesmen came to the assistance of their brethren in the State. The Maharaja's authority collapsed and he fled from the capital. The Maharaja, who had been conspiring with India, asked for its military assistance. The Government of India, without making any reference to Pakistan—which under the standstill agreement was responsible, *inter alia*, for the defence and external affairs of the Jammu and Kashmir State, flew in large forces to occupy and subjugate the State, thus entering upon a course of aggression against the people of Jammu and Kashmir, which is still continuing, and which can only end with the complete withdrawal of the Indian armed forces from the State. As a part of this conspiracy the Maharaja executed the so-called instrument of accession, which although totally devoid of all legal and moral validity, is continually used by India to bolster up its claim to the inclusion of Kashmir in India and to mask its aggression against the people of the State.

In the correspondence referred to above, Sir Girja Shankar Bajpai has raised once again the question of the legality of the so-called accession of the State of Jammu and Kashmir to India, which he maintains "the Commission has not questioned", and which in the view of the Government of India "is in fact and law beyond question". There is no

basis whatsoever for either of these assumptions. As explained in greater detail in our answer to questions 10, 11 and 12 of the Commission's questionnaire, dated the 4th August 1948, the State of Jammu and Kashmir had executed a standstill agreement with Pakistan on 15 August 1947, which debarred the State from entering into any kind of negotiation or agreement with any other country.

Secondly, the Maharaja of Jammu and Kashmir had no authority left to execute an instrument of accession on the 26 October 1947; because his people had successfully revolted, had overthrown his Government, had compelled him to flee from the capital.

Thirdly, the act of accession was brought about by violence and fraud and as such it was invalid *ab initio*, and

Fourthly, the Maharaja's offer of accession was accepted by the Governor-General of India on the condition that as soon as law and order had been restored, the question of the accession of the State would be decided "by a reference to the people". The Indian Constitution Act does not recognize a conditional accession. The action of the Maharaja and of the Government of India has, therefore, no validity in law.

Sir Girja Shankar Bajpai's observation that the legality of the State's accession to India has not been questioned by the Commission is misleading and wrong. According to both the Security Council and the Commission, the question in dispute in regard to the State of Jammu and Kashmir is whether the State should accede to India or to Pakistan. In the preamble to its resolution, dated 21st April 1948 [S/726], the Security Council noted "with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite". Clause 1 of the Commission's resolution of 5 January 1949 reiterates the same conclusion and states that: "The question of the accession of the State of Jammu

and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite". The accession of the State to India or to Pakistan is thus an open question which has yet to be decided, and not a settled fact. Sir Girja Shankar Bajpai's contention that the State has acceded and is a part of India begs the very question which is in dispute. The Commission is also aware of the manner in which the Government of India have sought to evade the obligations flowing from their acceptance of the Commission's resolution of 5 January 1949, by inviting the Maharaja to nominate four members to Indian Constituent Assembly. Reference is invited to my letter dated the 11th June 1949.

I regret having had to traverse again before the Commission the ground relating to some of the events preceding the settlement, but the many misstatements made in the recent correspondence addressed by the Government of India to the Commission have left me no choice in the matter. The events preceding the settlement were fully taken into account by the Commission in formulating its resolutions of the 13 August 1948 and 5 January 1949, and their recital at this stage can serve no useful purpose. The only relevant issue at present is the implementation of the terms of settlement embodied in the Commission's resolutions.

It is hardly necessary for me to comment in detail on the various statements made on behalf of the Government of India concerning the question of the Azad Kashmir forces. The Pakistan Government's stand regarding this matter is well known to the Commission, and I am glad to observe that it has been vindicated by the Commission's own statement of 25 September 1949. There are, however, two points to which I might draw the Commission's attention. The omission of any reference to the Azad Kashmir forces in the Commission's resolution of 13 August 1948 was deliberate and the reasons therefor were fully explained by the Commission to both Governments. At the meeting held in New Delhi on 17 August 1948, Mr. Korbelt, the Chairman of the Commission informed the Prime Minister of India that according to the

provisions of the Commission's resolution "limited Government of India forces would remain and that on the other side only the Azad forces would remain in their present positions" [S/1100, annex 12]. The Pakistan Government were informed on 19 September 1948, that "the resolution does not contemplate the disarmament or disbanding of Azad Kashmir forces" [S/1100, paragraph 108]. This position was not questioned by the Indian representatives and no demand was put forward by the Government of India before their acceptance of the Commission's resolutions of 13 August 1948 and 5 January 1949, for the disarmament or disbanding of the Azad Kashmir forces during the truce period. Indeed, even as late as 18th February 1949, the Government of India recognized that this question could arise only at the plebiscite stage. This is evident from paragraph 3 of Sir Girja Shankar Bajpai's letter dated 18th February 1949 (annex 7), which reads as follows:

"The disarming of Azad forces is really a matter of chronology. First there must be a cease-fire and, after that, a truce, as envisaged in parts I and II of the Commission's resolution of the 13th August 1948. After that, the condition precedent to arrangements for the holding of a plebiscite is the creation of conditions in which Kashmir nationals can return to the area now in the occupation of Azad Kashmir forces. So far as non-Muslims are concerned, such a movement will not take place until large-scale disarming of these forces has been carried out. We tried to make this clear to the Commission through Mr. Lozano in the course of our discussions last December, and I have emphasized this point in our recent meetings."

In his letter dated 21 August 1948, Sir Girja Shankar Bajpai has tried to confuse the issue by quoting only the first two sentences of the passage quoted above and leaving out the next two really relevant sentences,

From the correspondence between the Government of

India and the Commission, which has only now become available to us, it appears that it was only when the Commission formulated its truce proposals in April 1949, that the Government of India deviated from their original position and contended that the withdrawal of the bulk of the Indian forces under part II of the Commission's resolution of 13 August 1948 should be conditional upon the disbandment and disarming of the Azad Kashmir forces. The Pakistan Government hold that this contention is totally unwarranted, and is an attempt at introducing a new condition into the settlement arrived between India and Pakistan for the peaceful resolution of the Kashmir dispute.

In his letter dated 8 September 1949 (annex 36), Sir Girja Shankar Bajpai has also tried to raise the bogey of a threat to the security of the Jammu and Kashmir State from the Azad Kashmir forces during the truce period. These fears are wholly unwarranted. The Commission's resolutions of 13 August 1948 and 5 January 1949 are a carefully devised plan for the withdrawal and disposal of all armed forces in the State of Jammu and Kashmir in well-defined stages after taking into account all relevant considerations, including those relating to the security of the State. The Government of India, after having accepted this plan, are now attempting to upset it in order to retain their forces in the State and to delay and obstruct the plebiscite which is the object of the whole plan. The Pakistan Government wish to reiterate their belief that the presence of Indian forces in the State of Jammu and Kashmir is the greatest obstacle to the restoration of normal life and liberty in the State and to the creation of the conditions in which a really free and impartial plebiscite could take place.

There is also no basis for Sir Girja Shankar Bajpai's statement that the number of the Azad Kashmir forces has "grown considerably" since 5 January 1949. This is the first time that such an allegation has been made, and I wish to state categorically that it is wholly unfounded.

As regards the northern areas, the claim of the Government of India to post Indian garrisons in this area is not in accord with clause B. 2 of part II of the Commission's resolution of 13 August 1948, which permits the retention of Indian troops only "within the lines in existence at the moment of the cease-fire". The cease-fire line has since been fixed and the "northern areas" do not fall on the Indian side of the line.

This claim also conflicts with the assurance given by the Commission on 31 August 1948 that neither the Government of India nor the Maharaja's Government will be permitted to send any military or civil officials to the "evacuated territory". In its letter dated 3 September 1948 to the Foreign Minister of Pakistan [S/1100, paragraph 90], the Commission explained that the term "evacuated territory" used in paragraph A. 3 of part II of the resolution of 13 August 1948 "refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command". The area north of the cease-fire line has been as much under the effective control of the Pakistan High Command as the area west of the cease-fire line.

The assurance that no civil or military official of the Government of India or of the Maharaja's Government would be allowed to cross into the evacuated territory "for the purpose of administration or control" was reiterated in paragraph 4 (d) of the Commission's letter dated 28 April 1949 to the Government of Pakistan (annex 23).

It is thus clear from the analysis made above that the claim of the Government of India for administrative and military control of northern areas is in direct conflict with the provisions of the Commission's Resolution of 13 August 1948, and is, therefore, untenable.

I should further point out that the Government of India abandoned this untenable claim long before the settlement between India and Pakistan regarding Kashmir was reached. As stated by the Commission in paragraph 80 of its interim

report dated 9th November 1948 [S/1100]. Sir Girja Shankar Bajpai informed the Commission that India's acceptance of the 13 August resolution was not conditional upon acceptance by the Commission of the contents of Prime Minister of India's letter dated 20 August 1948 laying claim to administrative and military control over the "northern areas". A claim of this nature which is inconsistent and incompatible with the settlement and which the Government of India had themselves dropped before the settlement was reached cannot be entertained at this stage.

I would not like to conclude without expressing the Pakistan Government's appreciation of the patience and determination shown by the Commission in the performance of its duties and expressing the hope that the Commission would persist in its efforts to secure prompt and effective implementation of its resolutions of 13 August 1948 and 5 January 1949.

(Signed) M.A. Gurmani

43. *Text of the Letter dated 21 November 1949 from the Secretary-General, Ministry of External Affairs, Government of India Mr. G.S. Bajpai addressed to the Chairman of the Commission commenting on Mr. Gurmani's letter of 1 October 1949 (UN Document No. S/AC. 12/284).*

Under cover of his letter dated 12th October 1949, Mr. Colban sent us a copy of a letter, dated 1st October 1949, from the Minister for Kashmir Affairs, Government of Pakistan, to the Chairman of the Commission concerning released documents on arbitration (annex 42). The Government of India regret that, owing to the absence from India of the Prime Minister, it was not possible for them to send to the Commission their comments on Mr. Gurmani's letter earlier. They are now being submitted to the Commission with the request that they should be given due weight by the Commission and, if Mr. Gurmani's letter is published, that

this letter should also be given simultaneous and full publicity.

Mr. Gurmani's letter can be most conveniently dealt with under two broad heads:

A. The validity of the accession to India of the State of Jammu and Kashmir, and the events leading up to that accession.

B. The position of the Government of India in regard to:

- (a) The disbandment and disarming of the Azad Kashmir forces; and
- (b) The treatment of the sparsely populated mountainous regions in the north of the State.

A. Accession of Jammu and Kashmir to India

The Pakistan Minister for Kashmir Affairs has stated:

- (i) That the standstill agreement between Pakistan and the State debarred the latter from entering into an agreement with India.
- (ii) That the Maharaja of Jammu and Kashmir had no authority left to execute an instrument of accession.
- (iii) That the act of accession was brought about by violence and fraud and was, therefore, invalid ab initio.
- (iv) That the acceptance by India of the Maharaja's offer of accession was conditional and, therefore, invalid in law.

The reply of the Government of India to these contentions is set out below:

- (i) The standstill agreement between Pakistan and the State debarred the latter from entering into an agreement with India.

Prior to the enactment of the Indian Independence Act of 1947, the Indian States were under the suzerainty of the British Crown, and as part of this relationship, the Crown was responsible for the conduct of their external relations and defence. These rights and responsibilities which, in the language of the Government of India Act, 1935, were described as "the functions of the Crown in its relation with Indian States", were exercised by the Crown Representative in India. Side by side with these functions of the Crown, the States had a number of agreements and administrative arrangements with the Central and Provincial Governments in India relating to matters of common concern like customs, transit and communications, coinage, currency and exchange regulations, posts and telegraphs, extradition, civil supplies and the like. A measure of co-ordination between these two distinct sets of functions and responsibilities was secured by the appointment of one and the same person to the post of Governor General of India and "His Majesty's representative for the exercise of the functions of the Crown in its relations with Indian States". With the enactment of the Indian Independence Act of 1947, the suzerainty of His Majesty over the Indian States lapsed, and it was provided that along with it, the treaties and engagements in force on the date of the passing of the Act between His Majesty and the Indian States should lapse. States were thus released from the rights and obligations of Paramountcy which the British Crown possessed. This did not, however, dispose of the agreements relating to matters of common concern and administrative arrangements which the States had with the Central and Provincial Governments in India. To deal with these arrangements, there was a proviso to sub-section (1) of section 7 of the Indian Independence Act of 1947, which said that "notwithstanding anything contained in paragraph (b) of this sub-section, effect shall, as nearly as may be, continue to be given to the provisions of any such agreement as is therein referred to which relate to customs, transit and communications, posts and telegraphs, or other like matters until the provisions in question are denounced by the Ruler of the Indian State on the one hand or by the Dominion or provinces

or other parts thereof concerned on the other hand, or are superseded by subsequent agreements".

The State of Jammu and Kashmir had a number of agreements with the pre-partition Government of India and the pre-partition Provincial Government of the Punjab. By virtue of the proviso to sub-section (1) of section 7 of the Indian Independence Act, 1947, quoted above, these agreements automatically continued till they were either denounced by either party or replaced by subsequent agreements. On 12 August 1947, the Prime Minister of Jammu and Kashmir State telegraphed to the Pakistan Government that "the Jammu and Kashmir Government would welcome standstill agreements with Pakistan on all matters on which these exist at present moment with the outgoing British Indian Government. It is suggested that existing arrangements should continue pending the settlement of details and formal execution of fresh agreements". On 16 August 1949, the Government of Pakistan replied: "Your telegram of the 12th. The Government of Pakistan agree to have a standstill agreement with the Government of Jammu and Kashmir for the continuance of existing arrangements pending settlement of details and formal execution of fresh agreements." The agreements referred to in the telegram of the Jammu and Kashmir Government were agreements about matters like customs, communications, posts and telegraphs, civil supplies and the like. There was no question whatsoever of these agreements covering foreign relations or defence.

Paragraph 15 of document III, which was presented to the Security Council by Sir Mohammad Zafrulla Khan with his letter of January 15, 1948 [S/1100, annex 6], as a reply to India's complaint to the Security Council, states that "on 15 August 1947, Jammu and Kashmir State, like other States, was free to accede or not to accede to either Dominion. It entered into a standstill agreement with Pakistan under which inter alia the administration of posts and telegraphs services was entrusted to Pakistan". Again, in his speech to the Security Council on January 17, 1948 [229th meeting], Sir

Mohammad Zafrulla Khan said: "I explained yesterday to the Security Council what the standstill agreements mean. Kashmir had arrived at a standstill agreement with Pakistan with regard to her communications, supplies, and post office and telegraphic arrangements." It is inconceivable that, if the Government of Pakistan had considered defence and foreign relations to be covered by this standstill agreement, they would have failed to urge this when the Kashmir dispute was debated at length before the Security Council from January to April 1948. In any case, the constitutional position explained earlier in this letter should dispose of the new claim that the standstill agreement between the State and Pakistan debarred the State from lawfully acceding to India.

It is not irrelevant, in this connexion, to mention that on the date on which the Government of Jammu and Kashmir State approached the Pakistan Government with the request that the two enter into standstill agreements, a similar request was addressed to the Government of India. The Government of India invited the State to send an authorized representative to New Delhi to discuss the matter. Owing to changes in the personnel of the State Government and, subsequently, the invasion of the State, this request could not be complied with. That the Jammu and Kashmir State should have simultaneously asked both Pakistan and India to enter into standstill agreements which involved control of the State's foreign relations and defence has only to be mentioned to be dismissed as impossible.

(ii) and (iii) The Maharaja had no authority left to execute an instrument of accession and the accession was brought about by violence and fraud.

As regards (ii) and (iii), a brief recapitulation of some of the events before accession provides a sufficient answer. To take first the charge (by no means new) that the accession was obtained by violence and fraud. On the transfer of power to India and Pakistan the State of Jammu and Kashmir became free to accede to either country. The State executed a

standstill agreement with Pakistan as an interim measure to continue the arrangements on administrative matters which already existed. In violation of this agreement Pakistan first imposed what amounted to an economic blockade on the State. Subsequently, it aided and abetted an invasion of the territory of the State. The invaders consisted of tribesmen, members of regular Pakistan forces whose presence had to be explained on some such excuse as their being "on leave", and a number of inhabitants of the western part of the State, e.g., Poonch. In their march through the valley of Kashmir, the marauders spared nobody. If Mr. Gurmani's argument that the standstill agreement into which Kashmir entered with Pakistan covered defence and external relations is correct, all that India need have done was to accept the request for a similar agreement made by the State Government to the Government of India on the same date that the request for such an agreement was addressed to Pakistan. By doing so, India would have had no need to resort, as alleged by the Pakistan Minister, to force and fraud to obtain Kashmir's accession subsequently. As already stated, however, there is no substance in the argument that the standstill agreement included the subjects of external relations and defence. India sent forces into Kashmir at short notice and solely for the purpose of protecting the State against an extension of the destructive activities of the invaders, extension which would have created a situation between India and Pakistan that could only have resulted in war. If any party used force to secure the accession of Jammu and Kashmir it was Pakistan; if any party practised fraud to secure that accession, again it was Pakistan. It is difficult to describe, by any other word, the arguments that Pakistan has used to explain away its share in the invasion of the State which led to the present dispute.

The contention that the Maharaja of Jammu and Kashmir had no authority to execute an instrument of accession and that this accession was invalid *ab initio* has, in its legal and constitutional aspect, been dealt with under A. (paragraphs 4, 5 and 6 *supra*). It is difficult to understand why the Maharaja, faced with invasion, had no authority to

turn to a friendly neighbour for aid which accession would make lawful. That this request for accession had the support of Sheik Abdullah, leader of the most representative popular party in the State, and that the people of the State offered such resistance as lay in their power to the invaders should be sufficient evidence of the support which the demand for accession had, not only from the Ruler but from the majority of the inhabitants of the State.

It seems worthwhile to comment also on Mr. Gurmani's assertion made in paragraph 4 of his letter that "the overwhelming majority of the people of the State desire to accede to Pakistan". The free will of the people has yet to be ascertained. It is not without significance, however, that when the invaders came near Srinagar in October 1947, the local population rose almost to a man to resist them, even though it was practically unarmed. If even a fraction of this population had been in sympathy with the invaders, it could have rendered impossible, by damaging the airport, the landing of the Indian forces that went to their rescue.

As regards the contention in (iv), namely that the accession of the State to India was invalid because its acceptance was conditional, the Commission's attention is drawn to the following passage from the statement of Shri Gopalaswami Ayyangar made to the Security Council [242th meeting] :

"The Instrument of Accession is a document complete in itself. To the best of my memory the Instrument, in the case of Kashmir, does not contain any condition. It does not state that the accession is provisional. The commitment which the Government of India made for themselves on the question of ascertaining the wishes of the people was contained in a letter accompanying the accepted Instrument of Accession. The Government of India is certainly bound by its commitment, but it would be wrong to call the accession itself a provisional accession."

The accession became complete and operative on 26 October 1947, the date on which the relevant document was signed. Under section 2 of the Independence of India Act, any Indian State was at liberty to accede to either Dominion or to remain independent. If a State did accede to a Dominion, it could not legally withdraw from that accession except with the permission of the Dominion to which it had acceded. The effect of the Government of India's declaration that, if the vote of the people went against accession to India, India would release Kashmir from the accession was not to modify in any way the legal position, but only to clarify India's declared policy that it would, in the matter of accession be ultimately guided by the freely declared will of the people of the State.

The Pakistan Minister has also sought to deduce from the preamble to the resolution of the Security Council, dated 21 April 1948, that the words "that the Council noted with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite" signify that "the accession of this State to India or Pakistan was an open question". As has already been explained above this view is legally untenable. According to the Government of India's understanding, neither the Council nor the Commission has questioned the legality of the accession of the Jammu and Kashmir State to India. In the opinion of the Government of India, the words quoted from the preamble do no more than express approval of the method of plebiscite as a democratic way of settling the question whether or no the State should continue its accession to India or, in the alternative, should accede to Pakistan.

Before leaving the subject of accession, the Pakistan Minister's complaint that "the Government of India have sought to evade the obligations flowing from their acceptance of the Commission's resolution of 5 January 1949, by inviting the Maharaja to nominate four members to the Indian Con-

stituent Assembly" might also be dealt with until the people of the State decide otherwise, the State, in the opinion of the Government of India, remains legally acceded to India. While the Constitution of India, which, *inter alia*, provides for the relations of acceding States to the Government of India was under consideration, it would have been unfair to the Government and people of State of Jammu and Kashmir to deny them the opportunity of participating in the discussion of that constitution. Such participation was not intended to and does not, in fact, alter the Government of India's determination to abide, in the matter of accession, by the freely declared will of the people of Jammu and Kashmir. Should that will be against the State continuing to be part of India, if and when it comes to be expressed in a constitutional way under conditions of peace and impartiality the representation of the State in the Indian Parliament would automatically cease and the provisions of the Constitution of India that govern the relations of the State of Jammu and Kashmir with the Union of India will also cease to operate.

B. (a) Disbandment and disarming of the Azad Kashmir forces

To the Pakistan Minister "it appears that it was only when the Commission formulated its truce proposals in April 1949, that the Government of India deviated from their original position and contended that the withdrawal of the bulk of the Indian forces under part II of the Commission's resolution of 13 August 1948, should be conditional upon the disbandment and disarming of the Azad Kashmir forces". The Commission should, in the light of their various discussions with representatives of the Government of India and their correspondence with that Government, be aware of the correct position. It is untrue to suggest, as Mr. Gurmani has done, that the Government of India have made an attempt to introduce a new condition into the settlement arrived at between "India and Pakistan for the peaceful resolution of the Kashmir dispute". The Government of India's view of the Commission's two resolutions of 13 August 1948, and

5 January 1949, respectively is set out clearly in the related correspondence and records of discussions between the Commission or its representatives and the Government of India. In accepting the resolution of 13 August 1948, the paramount obligation of the Government of India to ensure the security of the State was emphasized in unequivocal terms. The request made to Mr. Lozano in December 1948 by the Prime Minister for the disbandment and disarming of the "Azad Kashmir" forces was prompted as much by the need of security for the State as by the additional consideration arising out of the resolution of 5 January, then under discussion in draft form, that the proposed plebiscite should be held, under conditions in which those who had left the so-called Azad Kashmir territory should be able to return to that area to exercise their vote freely and without fear. Neither condition could be satisfied if the "Azad Kashmir" forces—whose number, according to Pakistan's own admission, made in February 1949, has swollen to thirty-two battalions, and whose effectiveness as a fighting force must have greatly increased as a result of their having been brought under the operational control of Pakistan Army—were to remain untouched. India's insistence that the phasing of the withdrawal of its own forces must be linked with the adoption of practical steps to effect the large-scale disbanding and disarming of the "Azad Kashmir" forces was not, as suggested by the Pakistan Minister, an attempt to modify the resolution of 13 August 1948, but an inevitable consequence of the change in the strength and quality of these forces and, therefore, fully consistent with the understanding on which the Government of India accepted the resolution, viz, that they would be free to take suitable measures to discharge, effectively, their obligation to maintain the security of the State.

The Pakistan Minister's interpretation of paragraph 3 of my letter dated 18 February 1949, is supported neither by the quotations made by him from that letter nor by the position consistently taken up by the Government of India in this matter. All that the words quoted by the Minister intended to convey was that after the cease-fire, and before the

plebiscite could actually be held, conditions must be created in which Kashmir nationals could return to the area now in the occupation of "Azad Kashmir" forces. The period after the cease-fire, up to and including the period covering the plebiscite, during which there were no hostilities, could only be described by the word "truce". Consistently with the Commission's agreement that there should be large-scale disbandment and disarming of the "Azad Kashmir" forces before Kashmir nationals who had left the so-called Azad Kashmir area could return to that area, such disbandment and disarming had to begin well in advance of the plebiscite. From the standpoint of the security of the State, effective measures for such disbandment and disarming had to be devised and adequate arrangements made for their implementation before any large-scale withdrawal of Indian forces from the State could start. The quotation from my letter, dated 18 February 1949, as amplified by the Pakistan Minister, conveys this meaning and is not rationally susceptible of any other interpretation. The suggestion that I sought "to confuse the issue by quoting only the first two sentences of the passage" has no basis in logic or fact.

B. (b) The northern areas

The Pakistan Minister for Kashmir has argued, in effect, that both as regards administration and defence, it was the Commission's intention that the sparsely populated and mountainous regions in the State should be treated on the same footing as the so-called Azad Kashmir area, referred to in the Commission's resolution of 13 August 1948. Mr. Korbel's letter of 25 August 1948 [S/1100, paragraph 81], in reply to the Prime Minister's letter of 20 August 1948 [S/1100, paragraph 80], on the subject of these should be sufficient to negative this extraordinary interpretation. Had the Commission intended, as urged by Mr. Gurmani, "that neither the Government of India nor the Maharaja's Government will be permitted to send any military or civil officials to the 'evacuated territory' into the sparsely populated and mountainous northern regions, the Commission would

have said so instead of stating, as Mr. Korbelt did, "that the question raised in your letter (the Prime Minister's letter, dated 20 August 1948) could be considered in the implementation of the resolution".

Both as regards the disbandment and the disarming of the "Azad Kashmir" forces and the question of the northern areas, the Pakistan Minister for Kashmir Affairs has only reaffirmed the view of the Government of Pakistan that the resolution of 13 August 1948, was intended by the Commission to apply, not to the conditions prevalent in August 1948, but to the situation of today. That the refusal of the Government of India to accept this view can legitimately be regarded as evidence of their desire to evade any of their obligations is wholly unjustified. The Government of India stand by every commitment that they have made; only the fulfilment of those commitments must be related to facts as they are and not sought to be adjusted to false and fanciful arguments.

(Signed) G.S. Bajpai
Secretary-General

44. *Text of the Minutes of the Inter-Dominion Commanders-in-Chief Conference held at Army Headquarters, India, on 15 January 1949 (UN Document No. S/AC. 12/MA.3)*

Present :

India : General K.M. Cariappa, O.B.E., Commander-in-Chief, Indian Army ; Lieutenant-General S.M. Shrinagesh, G.O.C.-in-C., Western Command ; Major General Kalwant Singh, Chief of the General Staff.

Observer : Lieutenant-General D. Russell, C.B., C.B.E., D.S.O., M.C., Adviser General Staff, India.

Pakistan : General Sir Douglas Gracey, K.C.I.E., C.B., C.B.E., M.C., Commander-in-Chief, Pakistan Army; Brigadier M. Sher Khan, M.C., Director, Military Operations.

Secretaries : Lieutenant-Colonel S.P. Kapila, M.C., Military Assistant to C.-in-C., Indian Army ; Lieutenant-Colonel A.J. Wilson, M.B.E., M.C., G.S.O., 1 (C.-in-C. and C.O.S. Sectt.), G.H.Q., Pakistan.

In attendance for item 4: Lieutenant-General M. Delvoie, Military Adviser to UNCIP.

1. INTRODUCTORY

Opening the conference, Commander-in-Chief, Indian Army, said this was his first big job on assuming his new appointment. The conference was merely of an exploratory nature except in so far as part I of the United Nations Commission for India and Pakistan resolution was concerned. It was hoped that as a result of the conference it would be possible for the two Commanders-in-Chief to submit mutually agreed recommendations in respect of part II to their respective Governments. After referring to the terms of the United Nations Commission for India and Pakistan resolution Commander-in-Chief, Indian Army, said that India had already withdrawn one squadron of the RIAF and orders had already been issued regarding thinning out Indian Army troops from the forward areas. Commander-in-Chief, Pakistan Army, after emphasizing that so far as Pakistan was concerned, discussions on part II of the resolution were also of an exploratory nature, stated that Pakistan had also begun to withdraw.

2. DECISIONS REACHED BY THE CONFERENCE

A. In respect of part I of UNCIP resolution

- (i) It was agreed that the cease-fire in Jammu and Kashmir should be advanced from an informal to a formal basis.
- (ii) It was agreed that the following action should be taken in order to further the satisfactory implementation of the cease-fire :

- (a) The local commanders in the area Chhota Qazinag, Richmargali and Marol were authorized to make any slight adjustments in their dispositions to which they might mutually agree in order to avoid minor incidents. If the local commander did not consider adjustment necessary, or were unable to reach agreement, they would remain in their present positions.
- (b) Pakistan Army required the use of the road Mirpur-Jhangar-Kotli for the maintenance of their troops. Similarly, Indian Army required the use of the road Poonch-Uri for the same purpose. It was agreed that the local commanders should confer for the purpose of reaching mutual agreement on a satisfactory method of achieving these two objects.

B. In respect of part II of UNCIP resolution

It was agreed that the following proposals for the implementation of part II of the UNCIP resolution should be referred by the Commanders-in Chief for approval to their respective Governments :

- (i) In order to create an atmosphere in which it will be possible for UNCIP to proceed with part III of their resolution, the suggested plan is that :
 - (a) All raiders should be withdrawn as soon as possible from the State of Jammu and Kashmir.
 - (b) The Azad Kashmir forces should be relieved in the forward areas by Pakistan regular forces and concentrated in the rear areas. Pakistan nationals in the Azad Kashmir forces would then be withdrawn from the State of Jammu and Kashmir. At the same time Pakistan Army would adjust their disposition so that only the barest minimum of regular troops stationed on the existing cease-fire line, the bulk being withdrawn.
 - (c) It was agreed that both the Indian and Pakistan Armies would give all facilities to the UNCIP required for the establishment of observer teams in the area of Jammu

and Kashmir. It was suggested that observer groups should be formed consisting of neutral observers appointed by UNCIP, each with one Indian and one Pakistani officer.

- (d) Regarding withdrawal of Pakistan Army, see UNCIP resolution part II, paragraph B 1.

3. Commander-in-Chief, Pakistan Army, strongly recommended that, in order to ensure without question that the spirit of the UNCIP resolution part II is carried out, the following should also be agreed to by the Indian Government:

- (a) From those members of the present Azad forces who were nationals of Jammu and Kashmir State a Civil Armed Force should be formed as directed by the UNCIP for the purpose of maintaining law and order in the area at present occupied by Pakistan troops and Azad Kashmir forces ; the Civil Armed Force to be under the control of the UNCIP, and that a small Pakistan Army nucleus should be appointed to supervise the training and organization of this Force and to ensure compliance with the orders of UNCIP. The nucleus of regular Pakistan Army personnel should be withdrawn when UNCIP was satisfied with the organization of the Civil Armed Forces.
- (b) That when the Civil Armed Force has been satisfactorily organized this force would be stationed as directed by the UNCIP for the purpose of maintaining law and order. When this Force was ready to assume its duties the Pakistan screen of regular troops mentioned in paragraph B (i) (b) above would be withdrawn.

C-in-C Indian Army undertook to bring this recommendation to the notice of the Government of India.

4. Communication of Decisions to Lieutenant-General M. Delvoie, Military Adviser, UNCIP

Lieutenant-General M. Delvoie then entered the conference and Commander-in-Chief, Indian Army, explained the

decisions and recommendations which had been agreed. He emphasized that this information was being communicated to General Delvoie at this stage for information only. General Delvoie thanked the Conference for informing him of their decisions and recommendations and communicated his satisfaction at the agreements which had been reached.

5. EXCHANGE OF PRISONERS

It was decided that all prisoners of war should be exchanged as soon as it was possible. Commander-in-Chief, Pakistan Army, will exchange Regular and State Force troops man for man for similar Pakistan troops and Azad forces in Indian Army hands. When all raiders and Pathans who were at present in civil custody in India were ready to be exchanged the remainder of the Indian Regular and State Force troops in Attock camp will be exchanged for them. There will be no question of man for man in this last exchange. DMO Pakistan pointed out that owing to climatic conditions it would not be possible at this juncture to repatriate prisoners of war at present in Gilgit and at Skardu. Pakistan Army, however, undertook to make the best arrangements it could to make these prisoners comfortable until it was possible to repatriate them to India.

6. RETURN OF ABDUCTED WOMEN

Commander-in-Chief, Indian Army, raised the question of the return of abducted women (of service personnel) and said that already eight or ten had been sent back by the Indian Army to Pakistan. Commander-in-Chief, Pakistan Army, said that orders had been issued and he would inform Commander-in-Chief, Indian Army, of progress. He asked Commander-in-Chief, Indian Army, to let him have details of individual cases. DMO Pakistan pointed out the difficulty of obtaining the return of women who had been abducted by tribesmen and asked Commander-in-Chief, Indian Army, to bear this in mind.

7. MAINTENANCE OF DETACHMENTS IN THE KISHANGANGA AREA

The Indian Army agreed to permit the maintenance of the Azad element in the Kishanganga Valley (Gurais sector) by air because of the detachments being cut off by snow.

8. REPORTED CASES OF BURNING OF VILLAGES IN JAMMU AND KASHMIR

India agreed to make arrangements for Pakistan observers to fly in light aircraft over areas where the burning of villages was alleged in order to see for themselves the true state of affairs.

(Signed) A. J. Wilson
Lieutenant-Colonel
G.S.O.I.
(C. in C. and C.O.S. Sectt.)
GHQ Pakistan
15th January 1949

(Signed) S. P. Kapila
Lieutenant-Colonel
Military Assistant to
C. in C. Indian Army
15th January 1949

45. *Text of the Letter dated 18 May 1949 from the Secretary-General, Ministry of External Affairs, Government of India Mr. G.S. Bajpal to the Chairman of the Commission's truce terms of 28 April 1949 (UN Document No. S/AC. 12/207)*

I have the honour to refer to Mr. Pai's letter, dated the 2nd May 1949, in which it was stated that the Government of India would give the proposals that accompanied your letter of the 28th April 1949 (annex 22) their most urgent and serious consideration, but that, because of the absence of the Honourable the Prime Minister, Government's reply might be delayed by a few days. The Commission's proposals have now been fully examined by the Honourable Prime Minister and his colleagues in the light of your conversation with him, with Shri Gopalaswami Ayyangar and with me, and the Government of India's reply is as follows :

Disbanding and disarming of the so-called "Azad Kashmir" forces—In my letter No. 253-PASG/49, dated the 17th April, I explained that, since the disbanding and disarming of these forces had been repeatedly challenged, the Government of India would have preferred this matter to be dealt with in the truce agreement itself. They desired, however, to meet the Commission's views as far as possible. They had, therefore, expressed the wish that the assurance regarding the disbanding and disarming of these forces contained in the aide-memoire of the conversation of 22nd December 1948 between the Prime Minister of India on the one hand and Ambassador Colban and Your Excellency on the other [S/1196, annex 4], should be made clear beyond any doubt. This is still their position. But neither in the Commission's latest proposals nor in your covering letter is this assurance given, much less placed beyond all doubt. On the other hand, Your Excellency has stated categorically that the Commission cannot at this stage deal with the question of disbanding and disarming the "Azad Kashmir" forces.

In my letter of the 17th April (annex 20), it had also been suggested that "Discussions to implement this assurance should begin as soon as possible and decisions should be taken not later than the completion of the withdrawal of Pakistan troops (seven weeks) mentioned in A of Commission's proposals communicated to the Government of India on the 15th April. Regarding this suggestion, all that is indicated in Your Excellency's letter under reply is an early study of the matter for which the Commission "would enter into consultations. . . with the local authorities regarding the disposal of the armed forces in the territory to be evacuated by Pakistan troops, with a view to initiating implementation of point 4 (a) and (b) of the Commission's resolution of 5 January 1949" (annex 21).

In paragraph III (C) of the latest proposals, reference is made to what the Commission propose to do if decisions are reached within the period of seven weeks. Nothing is said, however, as to what is to happen if no decisions are reached

within this period; presumably the arrangements for the plebiscite will be proceeded with even if the 32 "Azad Kashmir" battalions remain intact after the withdrawal of the Indian and Pakistan troops, an eventuality which could not be reconciled with the agreed objective that the plebiscite should be free and impartial.

Both from the standpoint of the security of the State, which the Commission has agreed is the responsibility of the Government of India, and the freedom and impartiality of the plebiscite, which is an agreed objective, the Government of India are convinced that the disbanding and disarming of "Azad Kashmir" forces should not be left in a state of uncertainty or be, hereafter, the subject of challenge and dispute as it has been on the part of those who speak for Pakistan. It is, therefore, of the utmost importance.

- (1) That the agreement of the Government of Pakistan should be obtained now to the disbanding and disarming of these 32 battalions. The Commission has already agreed to large-scale disbanding and disarming and has informed the Government of Pakistan that this is its objective. It should not therefore be difficult, if Pakistan has accepted this objective, to obtain its agreement.
- (2) That the discussions regarding the procedure and phasing of the disbandment and disarming should commence immediately after the truce is signed. Decisions on a programme designed to achieve this objective should be taken as soon as possible.
- (3) That the phasing of the withdrawal of Indian troops be not divorced from, and should depend on, the progress made with the actual disbanding and disarming of the "Azad Kashmir" forces.

Treatment of the sparsely populated and mountainous areas in the north—The position of the Government of India with regard to the sparsely populated and mountainous regions in the north was explained to the Commission in the

Prime Minister's letter to Mr. Korbel on this subject dated the 20th August 1948 [S/1100, paragraph 80]. To quote the relevant sentence, the Government of India expressed their desire that "after Pakistan troops . . . have withdrawn from the territory, the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir and that for defence to us". In paragraph 8 of my letter, dated the 17th April, it was pointed out that although Pakistan forces, both regular and irregular, may be withdrawn from this area, a large number of men armed by Pakistan would remain and would constitute a threat and a menace to the security of the Valley of Kashmir and to the trade with Central Asia of the Jammu and Kashmir State. The persistence with which infiltration is being carried out in this region by forces under the control of Pakistan is convincing proof of the reality of this menace. (Reports of specific incidents have been furnished regularly to the Commission's military adviser and to the military observers but the Government of India are not aware that any action has been taken to check these violations of the "cease-fire".) That, under the Commission proposals, Pakistan forces, both regular and irregular, would be withdrawn from this part of the State cannot by itself eliminate the danger of the "locals" who have been armed by Pakistan menacing internal security among law-abiding citizens of the area and indulging in raids into the valley and in armed interference with the State's trade with Central Asia. Individual or even small groups of observers posted by the Commission would find it extremely difficult to detect and could not prevent such incursions. The expanse of the area will render this impossible. The Government of India, therefore, maintain that the principle that Indian troops should garrison important strategic points should be accepted. The points to be so occupied can be the subject of discussion with the Commission. The question of the administration of this area might be left over for the time being.

As regards the other proposals, the Government of India feel that, in view of what has been said in the preceding

paragraphs which deal with the major issues, comment at this stage is unnecessary.

Your Excellency's letter of the 28th April urges "unreserved acceptance" by the Government of India of the terms forwarded with that letter. The Government of India have found themselves unable to accede to this request. They reached this conclusion with a full sense of their responsibility. Twice, namely in August and in December 1948, they have given proof, to the Commission and to the United Nations, of their desire to reach a peaceful settlement of the Kashmir dispute, by accepting the Commission's resolution of the 13th August 1948, and the proposals, dated 11th December 1948 [S/1196, annex 3], which were subsequently embodied by the Commission in its resolution of the 5th January 1949. If they find themselves unable now to accept the Commission's latest proposals as they stand, it is through no lessening of their desire for a peaceful solution of the dispute, but because they have come to the conclusion that these proposals do not make adequate provisions for the security of the State—security which, as they have repeatedly made clear to the Commission, they regard as a paramount and ineluctable responsibility. It is now for the Commission to decide whether they will revise their proposals in the light of paragraphs 2 and 3 of this letter.

(Signed) G.S. Bajpai
Secretary-General

46. *Text of the Letter dated 30 May 1949 from the Minister for Kashmir Affairs, Government of Pakistan Mr. M.A. Gurmani to the Chairman of the Commission, in reply to the Commission's truce terms of 28 April 1949 (UN Document No. S/AC. 12/209)*

I have the honour to refer to His Excellency, Minister Lozano's letter dated 28 April 1949 (annex 23), enclosing the Commission's truce terms.

Before expressing their views on the Commission's truce terms, the Pakistan Government desire to make a few preliminary observations.

First, it is common ground that the Commission's resolutions of 13 August 1948 and 5 January 1949, which have been accepted by the Governments of both India and Pakistan constitute an agreed solution of the Kashmir question by means of a free and impartial plebiscite, and that no addition to, or modification of, these resolutions can be made without the agreement of the Governments of India and Pakistan and the Commission. It follows that the provisions of the truce agreement should be confined to the implementation of parts I and II of the Commission's resolution of 13 August 1948.

Secondly, the Pakistan Government have always been, and still are, determined to implement in full all their commitments under the Commission's resolutions of 13 August 1948 and 5 January 1949. They trust that the Government of India would also implement in full all the commitments accepted by them under these resolutions.

Thirdly, as the Commission is aware, the Pakistan Government do not consider themselves bound by any clarifications which may have been given by the Commission to the Government of India, but which were not put to and accepted by the Pakistan Government.

The Pakistan Government have given their most careful consideration to the Commission's truce terms, and their reactions to them are set out in the succeeding paragraphs.

Cease-fire line (paragraphs I A, B and C)

The Pakistan Government accept the cease-fire line drawn on the map annexed to the Commission's truce terms, and agree that the line between Chakothi and Tithwal, and from Chorwan to the north of Dras should be similarly demarcated by the Military Adviser to the Commission on the

basis of the factual positions occupied by the forces on both sides on 1 January 1949. They also agree that the Military Adviser to the Commission may decide upon local adjustments of the cease-fire line in cases where no agreement is reached between the local Commanders. It was explained in the Commission's letter dated 16 April 1949 (annex 19) that "the Military Adviser will base his determinations upon military and factual considerations, other considerations being beyond his competence". Further, it is understood that the adjustments, being local, would be of a minor character.

The Pakistan Government have already submitted relevant data to the Military Adviser to the Commission in regard to the undemarcated sectors of the cease-fire line, and they would be glad to furnish any further information that may be required.

The demarcation of the cease-fire line is provided for in part I of the Commission's resolution of 13 August 1948 and should not be held up because of any delay in arriving at an agreement with regard to truce arrangements under part II of the resolution. The Pakistan Government understand that the Commission is fully alive to the urgency of this question, and that the demarcation of the cease-fire line will be completed as soon as possible.

Northern area (paragraph I D)

The Pakistan Government understand :

- (i) That the territory referred to in paragraph I D of the truce terms is the area of the State north of the cease-fire line, with the exception of Gilgit Sub-division and Gilgit Agency;
- (ii) That the contingency in which the defence of this area might become necessary is hypothetical and highly remote;
- (iii) That such a contingency could arise only in the case of aggression by a foreign power, or an incursion

by tribesmen from the North-west Frontier of Pakistan, and that the provisions of this paragraph would not be invoked for the maintenance of law and order or for dealing with a situation of internal unrest;

- (iv) That any report from the Government of India on the subject would be verified independently by the Commission's own observers before the Commission and/or the Plebiscite Administrator arrived at the conclusion that the defence of the area is necessary;
- (v) That if the Commission and/or the Plebiscite Administrator conclude that the defence of the area is necessary, it is open to them to take any action that they consider appropriate in the particular circumstances of the case, that a request to Government of India for posting their troops at specified points is only one of the possible courses of action and that they are not precluded from seeking the advice of the Pakistan Government and the assistance of Pakistan forces should circumstances in their view warrant such a course;
- (vi) That the Commission does not intend in actual practice to take any action under this paragraph without consultation with the Plebiscite Administrator; and
- (vii) That, even if the posting of Indian garrisons at specified points is decided upon, the administration of the area will not be handed over to the Government of India, or to the Maharaja's Government, and that civil or military officials of either of these Governments would in no circumstances be introduced into this area for the purpose of administration or control.

The views of the Pakistan Government with regard to this proposal have been stated at great length in their letters

dated 23 and 26 April and 6 May 1949, and are summarized below:

(a) The proposal to allow in certain contingencies the posting of Indian garrisons at specified points in this area is not in accord with clause B. 2 of part II of the Commission's resolution of 13 August 1948, which permits the retention of Indian troops only within the lines in existence at the moment of the cease-fire.

(b) The proposal also conflicts with the assurance given by the Commission on 31 August 1948 that neither the Government of India nor the Maharaja's Government will be permitted to send any military or civil officials to the evacuated territory. In its letter of 3 September 1948 to the Foreign Minister of Pakistan [S/1100, paragraph 90] the Commission explained that the term "evacuated territory" used in paragraph A. 3 of part II of the resolution of 13 August 1948 "refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command". The area north of the cease-fire line has been as much under the effective control of the Pakistan High Command as the area west of the cease-fire line.

The assurance that no civil or military official of the Government of India or of the Maharaja's Government would be sent to the evacuated territory was conveyed to all the people in the "evacuated territory", whether north or west of the cease-fire line, and was an important factor in inducing the people of these territories to stop fighting.

(c) The proposal appears to be unnecessary in view of the following considerations :

Even hypothetically, the threat envisaged might arise either from tribesmen or from a foreign Power. The first contingency should be ruled out in view of the assurance given by the Pakistan Government that they would deal effectively within their own borders with any possibility of tribal incursions.

As regards the second contingency, it has been explained to the Commission that on account of the very difficult terrain, and the fact that the mountain passes remain snow-bound for most of the two main trade routes leading into this area from Central Asia could be used for military operations of any magnitude.

Of these two trade routes, much the more important one (Kashgar—Hunza—Gilgit) passes through Gilgit Agency and Gilgit Sub-division, which are to remain under the control of Pakistan. A threat to this route would therefore have to be dealt with in any case by Pakistan. The second and minor trade route (Yarkand—Leh—Kargil), which has to cross the Karakoram Pass (18,240 feet high), traverses territory which is already under Indian control. Any threat to this route could therefore be dealt with effectively by India without the necessity of posting India troops in the "northern area".

The local authorities responsible for the administration and security of this area should be capable of meeting any minor threat with the help of their local forces, which have successfully withstood the repeated assaults of the Indian Army. A major threat due to aggression by a foreign Power would be a threat to the security of the entire Indo-Pakistan sub-continent and to the peace of the world, and thus be a matter for the Security Council to consider and to take appropriate measures against. The Commission would agree that no authority other than the Security Council is competent to sanction measures to deal with such a situation.

(d) In view of its stronger strategic position and better lines of communication, and the fact that the population of this area is wholly Muslim, Pakistan is more vitally interested in, and is in a much better position than India to safeguard the security of this area. The Muslim population of this area is so opposed to the imposition of Indian rule that the mention of a proposal to post Indian garrisons in certain contingencies is likely to create serious unrest among them. The actual posting of Indian garrisons in any part of this

territory would have still more disastrous effects on the peace and tranquillity of the area and, far from ensuring security against foreign attack, it would result in a war of resistance, thus creating conditions facilitating foreign intervention.

In view of the considerations summarized above, the Pakistan Government submit that the proposal contained in paragraph I D of the truce terms is not in accord with the Commission's resolution of 13 August 1948, is unnecessary and, far from assuring peace and tranquillity in this area, is likely to create conditions of unrest and insecurity.

Withdrawal of troops (paragraphs II A, B and C)

The withdrawal of troops is the central feature of part II of the Commission's resolution of 13 August 1948, which calls for the following action :

- (i) Withdrawal of tribesmen.
- (ii) Withdrawal of such Pakistan nationals as have entered the State of Jammu and Kashmir for the purpose of fighting.
- (iii) Withdrawal of Pakistan troops and the bulk of Indian troops in accordance with a synchronized programme.

The Pakistan Government have carried out successfully the difficult and delicate operation of insuring the withdrawal of the tribesmen in advance of the truce agreement, although this obligation arises only after the signing of the truce agreement. No better proof could be afforded of the sincere desire of the Pakistan Government to take all steps possible to promote peace and tranquillity in the State and to pave the way, as rapidly as possible, for the holding of a free and impartial plebiscite. The second obligation mentioned in paragraph 8 (ii) above is also in the process of implementation.

It is understood that the Commission's Military Adviser has called for reports from his observers with regard to the

withdrawal of tribesmen and Pakistan nationals who had entered the State for the purpose of fighting, and that on the basis of this investigation the Commission will be in a position, after the signing of the truce agreement, to notify the Government of India of the discharge of these obligations by Pakistan. The Commission would then be able to fix a date for the beginning of the withdrawal of the Pakistan troops, and another for that of the bulk of the Indian forces from the State of Jammu and Kashmir.

The only important matter left to be dealt with in the truce agreement is the withdrawal of Pakistan troops and of the bulk of Indian troops in accordance with a synchronized programme. In its letter of 27 August 1948. [S/1100, annex 27], the Commission stated that "synchronization of the withdrawal of the armed forces of the two Governments will be arranged between the respective High Commands and the Commission". This meant that the Commission would arrange with the Pakistan High Command the synchronization of the withdrawal of the armed forces of the two Governments, and also do the same thing with the Indian High Command. Such a procedure is the only practical way of insuring that the withdrawals of Indian and Pakistan forces proceed in corresponding stages, without advantage to either side at any time during the truce period and without temptation to either side to violate the truce, either by restarting hostilities or by halting or slowing down the withdrawal.

Under the Commission's truce proposals the Pakistan Government have to withdraw all their forces within seven weeks in accordance with the schedule which has been laid down in paragraph II A. 1 of the truce terms, and communicated to the Government of India. The Pakistan Government, on the other hand, have not been shown the schedule of withdrawal of the Indian forces and have thus been placed at a disadvantage vis-a-vis India, which has full information of the withdrawal programme of both the forces. The only positive information given to the Pakistan Government is that the time allowed for the withdrawal of Indian

forces is longer than the seven weeks laid down for the complete withdrawal of Pakistan forces. They are not even sure that the schedule of withdrawal of the Indian forces submitted by the Commission for the agreement of the Government of India is firm and not subject to alterations. The Pakistan representatives have been made to understand that there will be no change in the composition of the "bulk" of the Indian forces as given in the schedule already submitted to the Government of India, nor in the time allowed for the withdrawal of the "bulk", but that there might be some alterations in the stages of withdrawal, although such changes, if any, would be minor and limited by the Commission's assurance given in the letter under reply that the schedules of withdrawal of the Pakistan troops and of the bulk of the Indian forces will be faithful to the Commission's resolution of 13 August 1948 and represent a co-ordination of timing which in the view of the Commission will constitute a synchronized action.

The truce terms relating to the withdrawal of the Pakistan and Indian forces do not appear to the Pakistan Government to fulfil the undertaking given by the Commission that it would arrange with the Pakistan High Command a synchronization of the withdrawal of the two armed forces. In consequence, the Pakistan Government have no information as to the strength and composition of the bulk of the Indian forces to be withdrawn, nor of the time during which these forces will withdraw from the State. They have also no information regarding the stages of withdrawal of the Indian forces corresponding to the stages of the withdrawal of the Pakistan forces, or of the position on the Indian side at the end of seven weeks, when Pakistan forces will have completely withdrawn from the State. They have also no information as to the strength, composition or location of the Indian forces allowed under paragraph B 2 of part II of the Commission's resolution of 13 August 1948 to assist the local authorities in the observance of law and order, and have thus been deprived of the opportunity to place their views before the Commission on the subject; vide the Commission's letter

of 3 September 1948 to the Foreign Minister of Pakistan. The Pakistan Government have not even been told the reasons for which, in spite of repeated requests, they have been denied information on these vital points without which they cannot, in reason, be expected to take a decision. The only fact known to them, namely, that the time allowed for the withdrawal of the bulk of the Indian forces is longer than the time allowed for the withdrawal of the Pakistan Army, appears to them to nullify the provision for a synchronized withdrawal promised by the Commission and to create a disequilibrium of forces after the period of seven weeks allowed for the withdrawal of the Pakistan Army.

Disposal of the Indian and State forces and of Azad Kashmir forces (paragraph III B and C)

The Pakistan Government understand that the discussions envisaged in paragraphs III B and C are with a view to initiating implementation of points 4 (a) and (b) of the Commission's resolution of 5 January 1949, under which decisions regarding the final disposal of Indian and State forces on the one hand and of Azad Kashmir forces on the other are to be taken by the Commission and the Plebiscite Administrator. It is understood that it is the Commission's intention to associate the Plebiscite Administrator with these discussions from the outset even though he may not have been formally appointed to office by then. Further it is understood that the Plebiscite Administrator would reach the Indo-Pakistan sub-continent at a very early date, and that his formal appointment would be made as soon as possible.

Paragraph III C of the truce terms provides that if decisions are reached in the consultations envisaged in paragraph III B of the Commission's truce proposals, the schedule of withdrawal of the Pakistan Army may be extended to three months in order to facilitate the implementation of decisions relating to point 4(b) of the Commission's resolution of 5 January 1949. It is understood that the Pakistan Army would be expected during this extended time only to reorganize

the Azad Kashmir forces so as to facilitate the implementation of decisions relating to point 4(b) of the Commission's resolution of 5 January 1949, and not actually to implement those decisions within that period of time. In other words, the actual implementation of the decisions will start only after parts I and II of the Commission's resolution of 13 August 1948 have been fully implemented.

In the view of the Pakistan Government it is essential that the Plebiscite Administrator be associated with the discussions under paragraphs III B and C of the Commission's truce terms, since such discussions relate to the provisions of paragraph 4(a) and (b) of Commission's resolution of 5 Jan. 1949. The decisions reached in these discussions will have a vital bearing on the freedom of the plebiscite, and it is therefore of the utmost importance that the Plebiscite Administrator should participate in these discussions. The Pakistan Government strongly urge that the Plebiscite Administrator should be appointed at as early a date as possible.

General provisions (paragraphs III F and G)

It is understood that the Commission is fully alive to the importance of taking concrete steps, such as the release of political prisoners and the abrogation of emergency laws, to implement the declaration under part III of the truce terms. The Pakistan Government trust that the Commission will do everything possible for the restoration of human and political liberty in the State in actual practice. Unless the public declaration envisaged in paragraph III F were followed immediately by concrete action, the psychological effect on the people of the State would be of a highly undesirable character.

The Pakistan Government are unable to appreciate how the introduction of paragraph III G in the Commission's truce terms could be regarded as an implementation of part II of the Commission's resolution of 13 August 1948 which makes no mention at all of the subject matter of this paragraph. It is suggested that this paragraph, which unnecessarily introduces

a highly controversial matter, should be omitted from the truce terms.

Conclusion

The Pakistan Government are sincerely desirous of advancing to the plebiscite stage as early as possible, and to this end they wish to assure the Commission of their whole-hearted cooperation in the tasks developing upon the Commission and the Plebiscite Administrator. In pursuance of this policy they are anxious that the truce agreement leading to the withdrawal of the armed forces should be concluded at as early a date as possible. Since this is an essential preliminary to the holding of a plebiscite they have, as the Commission is aware, carried out an important part of their obligations in effecting the withdrawal of tribesmen and of almost all Pakistan nationals who had entered the State for the purpose of fighting. They are also ready to withdraw all Pakistan troops from the State of Jammu and Kashmir under the terms of the Commission's resolution of 13 August 1948 as elucidated to the Pakistan Government. The Commission will, no doubt, appreciate that without knowing the schedule of withdrawal of the Indian forces, on the basis of which the synchronized withdrawal of the two armed forces could be arranged, the Pakistan Government are not in a position to take a decision on the Commission's truce terms, the central feature of which is the withdrawal programme of the two armed forces. They trust that they may soon be put in a position in which they can take such a decision.

The submissions made in this letter, in particular that relating to the early appointment of the Plebiscite Administrator, have been made with a desire to facilitate the task of the Commission. The Pakistan Government trust that these submissions will meet with the approval of the Commission.

(Signed) M.A. Gurmani

47. *Text of Letter dated 17 June 1949 from the Secretary-General, Ministry of External Affairs, Government of India Mr. G.S. Bajpai to Mr. Lozano, relating to conditions required in respect to a truce agreement (UN Document No. S/AC. 12/214)*

Pursuant to our conversation of the 11th, 13th and 16th June, I am setting out below, specifically, the conditions on which our requirements in respect of a truce agreement which was dealt with at length in my letter to Your Excellency, No. 267-PASG/49, dated the 18th May 1949 will be met.

(i) *Disbanding and disarming of Azad Kashmir forces*—The commitment of the Commission with respect to the purpose of point 4 (b) of its resolution of 5th January 1949, namely, the large-scale disbanding and disarming of the Azad Kashmir forces remains unquestioned. The consultations for initiating the implementation of 4 (b), referred to in paragraphs (B) and (C) of part III of the Commission's proposals forwarded with your letter of the 28th April 1949 (annex 22), will be for the purpose of reaching decisions as to the procedure and phasing of the large-scale disbanding and disarming of these forces. Further if, by the end of the seven weeks referred to in III (C) of the Commission's proposals, the Commission should find that the large-scale disbanding and disarming of these forces is impracticable, the conditions mentioned in paragraph 2 of the Commission's resolution of the 5th January 1949 will be deemed not to have been completed.

(ii) *Sparsely populated mountainous regions in the north of the State*—In paragraph 2 (b) of the annexure to my D.O. No. 248-PASG/49, dated the 13th April, I mentioned the strategic points in the north which, in the view of our Military Advisers, should be held by our forces in the north in order to insure fully the security of the State. However, we should be willing to occupy only Dudhnial, Shardi, Surgun, Folowai, Kamri Bal Press, Burzil Bai and Marol in the expectation that Pakistan forces, regular as well as irregular, will be withdrawn from the State. Should this expectation not be realized, or

should a threat to the security of the State or the maintenance of internal order arise in that area from any other source, the Government of India will be free to garrison with their forces all or any of the other points mentioned in my letter referred to above. The Government of India feel compelled to take up this position because of measures such as the construction of roads, and the provision of arms and supplies to points like Skardu, of which the only significance can be that Pakistan either does not wish to withdraw from this territory or intends that after withdrawal, those who stay behind can create turmoil. As stated previously, the question of the administration of this region can be discussed separately.

(iii) *Phasing of withdrawal of Indian forces*—We have already pointed out to the Commission the interdependence of the phasing of the withdrawal of Indian forces and the progress made with the disbanding and disarming of the so-called "Azad Kashmir" forces. From this standpoint, we consider the following programme of withdrawal as the absolute maximum compatible with security.

(At the request of the Government of India, the schedule of the withdrawal of troops is not reproduced here.)

As already agreed, this programme may not be communicated to the Pakistan Government until a truce agreement has been arrived at.

(Signed) G.S. Bajpai

48. *Text of the Letter dated 9 June 1949 from the Secretary-General, Ministry of External Affairs, Government of India, Mr. G.S. Bajpai to Mr. Lozano, relating to the Indian forces to be maintained in the State (UN Document No. S/AC.12/216)*

Referring to our conversation regarding the communication to the Government of Pakistan of the Commission's proposal to the Government of India about the forces which they should maintain in Jammu and Kashmir at the end of

three months, I have to repeat what I told you in the course of our conversation, namely that this matter is one entirely between the Government of India and the Commission. However, as a matter of courtesy to the Commission, and in order to facilitate a settlement, the Government of India agree that, if Pakistan accepts the truce terms in accordance with what we have stated, and the Commission informs us about Pakistan's reply to these truce terms, we shall have no objection to the Commission informing the Government of Pakistan that it intends proposing to the Government of India that, at the end of three months, they (the Government of India) should maintain the forces mentioned in (iii) (c) of my letter No. 345-PASG/49, dated the 17th June 1949 (annex 50).

(Signed) G. S. Bajpai

49. *Text of the Letter dated 11 June 1949 from the Minister for Kashmir Affairs, Government of Pakistan Mr. Gurmani addressed to the Chairman of the Commission, relating to the action of the Government of India inviting the Government of Jammu and Kashmir to nominate representatives to the Indian Constituent Assembly (UN Document No. S/AC.12/213)*

I have the honour to draw the attention of the Commission to the situation which has been created by the action of the Government of India in inviting the Government of the State of Jammu and Kashmir to nominate four representatives to the Indian Constituent Assembly.

As the Commission is aware, the keystone of the structure of a peaceful settlement of the Kashmir dispute is the acceptance by the Governments of India and Pakistan of the principle that the question of the accession of the State of Jammu and Kashmir to India or to Pakistan should be decided by the democratic method of a free and impartial plebiscite. This position has been recognized and accepted by the two Governments, the Security Council and the Commission, and forms the basis of the Commission's resolutions

of 13th August 1948 and 5 January 1949, which were accepted by the Governments of India and Pakistan.

The recent action of the Government of India referred to in paragraph 1 above is a clear violation of their international commitments and is contrary to the specific assurances given by them to the United Nations and Pakistan for the peaceful settlement of the Kashmir dispute.

For facility of reference certain relevant extracts from the communications and pronouncements of the representatives of the Government of India are reproduced below to show the unqualified acceptance by the Government of India of the position that the question at issue is the accession of the State of Jammu and Kashmir to India or to Pakistan, and that this issue is to be decided by means of a free and impartial plebiscite organized and conducted by the United Nations

In his letter dated 27 October 1947 in reply to the offer of accession by the Maharaja of Jammu and Kashmir, Lord Mountbatten, Governor-General of India, stated: "Consistent with their policy that in the case of any State where the issue of accession has been the subject of dispute the question of accession should be decided in accordance with the wishes of the people of the State, it is my Government's wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader, the question of the State's accession should be settled by a reference to the people."

This was reiterated in the telegrams which the Prime Minister of India sent at this time to the Prime Ministers of the United Kingdom and Pakistan. In his telegram No. 402 Primin dated 27 October 1947 to the Prime Minister of the United Kingdom, which was repeated to the Prime Minister of Pakistan, Pandit Jawaharlal Nehru stated: "I should like to make it clear that the question of aiding Kashmir in this emergency is not designed in any way to influence the State to accede to India. Our view which we have repeatedly made

public is that the question of accession in any disputed territory or State must be decided in accordance with the wishes of the people and we adhere to this view."

In another telegram to the Prime Minister of Pakistan dated 6 November 1947, Mr. Nehru remarked: "I have stated our Government's policy and made it clear that we have no desire to impose our will on Kashmir but to leave final decision to the people of Kashmir. I further stated that we have agreed to an impartial international agency like United Nations supervising any referendum. This principle we are prepared to apply to any State where there is a dispute about accession."

Again in his telegram dated 8 November 1947, to the Prime Minister of Pakistan, the Prime Minister of India summed up the policy of the Government of India with regard to the Kashmir problem in the following words: "It will thus be seen that our proposals which we have repeatedly stated are: (1) that the Government of Pakistan should publicly undertake to do their utmost to compel the raiders to withdraw from Kashmir; (2) that the Government of India should repeat their declaration that they will withdraw their troops from Kashmir soil as soon as raiders have withdrawn and law and order are restored; (3) that the Governments of India and Pakistan should make a joint request to UNO to undertake a plebiscite in Kashmir at the earliest possible date."

This continued to be India's stand when it brought the Kashmir dispute before the Security Council. The following is an extract from paragraph 6 of the Government of India's complaint to the Security Council (annex 44): "But, in order to avoid any possible suggestion that India had utilized the State's immediate peril for her own political advantage, the Government of India made it clear that once the soil of the State had been cleared of the invader and normal conditions restored, its people would be free to decide their future by the recognized democratic method of a plebiscite or referendum

which, in order to ensure complete impartiality, might be held under international auspices."

The same view was reiterated by the Indian representative in the debate in the Security Council. Speaking at the 234th meeting on 23 January 1948, Mr. M. C. Setalvad, the representative of India, observed as follows: "The Indian Government was careful, even though the request came from both [the Maharaja and Sheik Abdullah] to stipulate that it was accepting the accession only on the condition that later, when peace had been restored, the expression of the popular will should be ascertained in a proper manner." A little later he added: "and the Indian Union on the request of both the Maharaja and this popular leader [reference is to Sheik Abdullah] has accepted the accession on the condition that I have already mentioned."

Again at the 26th meeting on 10 March 1948, Mr. Gopalaswami Ayyangar, representative of India, resuming the debate after having obtained an adjournment from the Security Council, said: "I shall take up the other points on which I thought at the time we had reached a kind of impasse [he is referring to the pre-adjournment developments]. These points are, roughly speaking, related to the ensuring of a free and impartial plebiscite on the question of accession of the Jammu and Kashmir State."

During the course of this very speech the representative of India went on to observe: "We do not want any pressure, any violence, any coercion used on even a single voter in the matter of his choice between India and Pakistan on the question of accession."

After a protracted debate, the Security Council adopted a resolution on 21 April 1948 (annex 46), the preamble of which inter alia noted with satisfaction "that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or to Pakistan should be decided through the democratic method of a free and impartial plebiscite". The Government of India in their letter dated 5 May

1948 to the President of the Security Council [S/1100, annex 3] rejected this resolution on the ground that it was not possible for them "to implement those parts of the resolution against which their objections were clearly stated by their delegation." But at no stage during the debate in the Security Council, or thereafter, did the representatives of India object to the conclusion of the Security Council that the question in dispute was whether the State of Jammu and Kashmir should accede to India or to Pakistan, and that this matter should be decided through the democratic method of a free and impartial plebiscite.

The Commission is well aware of later developments, having itself been an active participant in them. After months of hard and patient labour the Commission succeeded in securing the agreement of the Governments of India and Pakistan to its resolution of 5 January 1949. Clause 1 of the resolution reads as follows: "The question of the accession of the State of Jammu and Kashmir to India or to Pakistan will be decided through the democratic method of a free and impartial plebiscite." It is common ground that by accepting this resolution, the Governments of India and Pakistan have contracted an international agreement, which is binding on both.

On 27 May 1949, Mr. Gopalaswami Ayyangar, Minister for Transport (who had represented India before the Security Council) moved the following resolution in the Indian Constituent Assembly:

"That after paragraph 4 of the Schedule to the Constituent Assembly Rules, the following paragraph be inserted, namely:

"4a. Notwithstanding anything contained in paragraph 4, all the seats in the Assembly allotted to the State of Kashmir may be filled by nomination and the representatives of the State to be chosen to fill such seats may be nominated by the Ruler of Kashmir on the advice of his Prime Minister."

In the course of the debate which followed, Mr. Gopala-swami Ayyangar is reported to have observed as follows on the question of the accession of the State to India:

"The accession is complete. No doubt we have offered to have a plebiscite taken when the conditions are created for the holding of a proper, fair and impartial plebiscite. But that plebiscite is merely for the purpose of giving the people of the State the opportunity for expressing their will. The expression of their will should be only in the direction of whether they would ratify the accession that has already taken place, not ratify in the sense that act of ratification is necessary for the completion of the accession. But if the plebiscite produces a verdict which is against the continuance of accession to India of the Kashmir State, then what we are committed to is simply that we shall not stand in the way of Kashmir separating itself from India.

"Under the provisions of the Indian Independence Act, where a State accedes and subsequently wishes to get out of the act of accession, that is to separate itself from the main Dominion, it cannot be so except with the consent of that Dominion.

"The Government of India's commitment," Mr. Ayyangar added, "was simply that if the verdict of the plebiscite was against India, then India would not stand in the way of the wishes of the people of Kashmir being given effect to. So the statement that the accession is at present complete, is a perfectly correct description of the existing state of things. We are not bringing representatives of the State to this House for the purpose of placing their seal on the act of accession. We are giving them an opportunity for the exercise of the rights they have obtained by the fact that accession has already taken place."

Mr. Gopalaswami Ayyangar's resolution was adopted by the Constituent Assembly, but not without misgivings in the minds of some members, who realized that this meant a reversal of the policy hitherto followed by the Government of

India with regard to Kashmir. Maulana Hasrat Mohani (U.P.) is reported to have made the following observations:

"There was no need to send Kashmir representatives to the Constituent Assembly at this state." Referring to an earlier interruption by Pandit Nehru, he added: "Pandit Nehru got angry and said the Kashmir had acceded to India and, therefore, had every right to send its representatives here. I am doubtful whether he was absolutely right in saying so, because not once or twice, but many times he has said that the accession depends on the plebiscite. Now he has made up his mind, he has created difficulty and his move is that this plebiscite will never take place. Therefore he says that the accession is complete and there is no doubt about that."

"Even admitting that accession was complete, the question of nominating representatives to the Constituent Assembly did not arise until the status of the Kashmir Government and the status of the Maharaja were decided."

Another member of the Indian Constituent Assembly (Professor K. T. Shah) moved an amendment providing inter alia that the seats allocated to the Kashmir State should be filled only pending the holding of a plebiscite by the United Nations and without prejudice to the result of the plebiscite. The following extract from the report of the debate by an Indian news agency—the A.P.I.—throws an illuminating light on the attitude now adopted by the Government of India to the questions of accession and the plebiscite:

"When Professor Shah dealt with the portion of his amendment referring to the holding of a plebiscite and said that the accession of the State was not complete, a point of order was raised by Dr. Pattabhi Sitaramayya (the President of the Indian National Congress) whether it could be discussed, as accession of the State was complete and unconditional. Dr. Pattabhi was supported by Pandit Nehru (the Prime Minister of India), and some other members.

"Dr. Rajendra Prasad (the President of the Indian

Constituent Assembly) agreed with the objection raised and said that the motion was concerned with the representation of the State in the Assembly and the method for it. He added that Professor Shah's point was irrelevant and ruled out of order the part in Professor Shah's amendment referring to the plebiscite."

It has hitherto been common ground between the Governments of Pakistan and India that the question at issue regarding Kashmir is that of the accession of the State to India or Pakistan, and that this is to be decided by means of a free and impartial plebiscite of the people of Jammu and Kashmir State. This was, as set out above, the basis of the resolution of the Security Council of 21 April 1948 and of the Commission's resolution of 5 January 1949, clause 1 of which states the position in clear and unambiguous terms. The action of the Government of India cited above and the recent pronouncements of its spokesmen, both in the Constituent Assembly and outside of it, show that India is now seeking to shift its position and to convert the question from one of accession to India or Pakistan into one of secession of the State from an accomplished, completed and unconditional accession to India.

The Pakistan Government submit that this action on the part of India is a flagrant violation of the international agreement embodied in the Commission's resolution of 5 January 1949 and that it would, if persisted in, destroy completely the basis upon which the Security Council and the Commission have built the structure of a peaceful settlement of the Kashmir dispute.

The Government of Pakistan further submit that India's attempt to prejudge the constitution of the State of Jammu and Kashmir and to invite the participation of the representatives of the State in framing the constitution of India before the question of accession of the State to India or to Pakistan has been decided, is clearly against the letter and spirit of the Commission's resolutions of 13 August 1948 and 5 January

1949, which, after having been accepted by India and Pakistan, constitute an international agreement binding on both countries. The agreement postulates the determination of the will of the people with regard to accession by means of a free and impartial plebiscite. Only after the State's accession to India or Pakistan has been determined can the question of the framing of its future constitution or of the participation of its representatives in the framing of the constitution of the Dominion concerned arise.

The Pakistan Government request that the Commission may be pleased to take prompt and effective action to remedy the situation created by the Government of India.

I would be grateful if the Commission would be so kind as to indicate to me for the information of the Pakistan Government what steps it proposes to take to stop the Government of India from pursuing a course of action which, besides complicating the delicate negotiations on which the Commission is at present engaged and jeopardizing the prospects of a peaceful settlement between India and Pakistan, is a challenge to the authority of the Commission, the Security Council and the United Nations. The Commission would agree that if an international agreement solemnly entered into is treated like a scrap of paper to be cast away by one of the contracting parties to suit its convenience, a dangerous precedent would be created in international relations. The Commission will also agree that the change in the policy of the Government of India with regard to the question of accession of the State of Jammu and Kashmir is likely to cause serious deterioration in Indo-Pakistan relations and thus constitute a renewed threat to international peace and security.

The Pakistan Government request the Commission to transmit a copy of this communication to the Security Council.

(Signed) Gurmani

50. *Text of the Letter dated 20 June 1949 from the Chairman of the Commission Mr. Leguizamon addressed to the Minister for Kashmir Affairs, Government of Pakistan, relating to the action of the Government of India inviting the Government of Jammu and Kashmir to nominate representatives to the Indian Constituent Assembly (UN Document No. S/AC. 12/217)*

I have the honour to acknowledge receipt of your letter dated 11 June 1949 (annex 52) in regard to the action of the Government of India inviting the Government of Jammu and Kashmir to nominate representatives to the Indian Constituent Assembly.

Your letter was submitted to the United Nations Commission and duly noted. The Commission decided that a copy of the letter shall be forwarded in due time to the Security Council for its information.

The Commission did not consider that it would serve any useful purpose at the present time to take any other steps in this matter.

(Signed) Carlos A. Leguizamon

Owen Dixon Report

Supporting Documents

1. *Text of the Telegram dated 15 August 1950 from the United Nations Representative for India and Pakistan Mr. Owen Dixon to the Prime Minister of India.*

I have encountered a great many difficulties in Karachi but they have now been resolved.

Pakistan continues to stand unequivocally on the position that, under the agreed resolutions of 13 August 1948, 5 January 1949 and 14 March 1950, the decision of the destination of the State of Jammu and Kashmir is to be by an impartial plebiscite. For that reason the Prime Minister has expressed to me the unwillingness of his Government to receive or consider any alternative proposal or plan. I have informed him that I completely understood Pakistan's position, and I have assured him that neither I nor any other authority of the United Nations would regard him or his Government as in the least degree derogating from or prejudicing that position if he complies with the request I have made to him to examine and take into consideration a plan which I am ready to prepare and submit although it is of an alternative character. I have said that I believe that until I have exhausted all possible methods of settlement I have not completed the discharge of my functions. I have said to him that, if Pakistan refused on the ground stated to join in the consideration of the intended

plan, it would in my opinion be wanting in the fulfilment of the duty which rests upon both countries to give willing consideration to any plan put forward as containing a possibility of reconciling the conflict between the two countries and thus avoiding the dangers to which the continuance of the conflict exposes both of them. I further told him that I was unable to understand how anyone could regard him as weakening his reliance upon the agreed resolutions, which state that the question of the accession of the State of Jammu and Kashmir to India or Pakistan would be decided through the democratic method of a free and impartial plebiscite, for no better reason than because he complied with a request from me to give me his willing consideration to the possibility of solving by some alternative the very grave problem which exists.

On the faith of these assurances he agreed to comply with my request.

Pakistan is ready to attend the conference on the footing that the presence in my intended plan of a provision for a limited plebiscite will not prove an insuperable objection. Pakistan, however, fears that the conference will break down because India will object to the provisions I will include to secure the fairness of the plebiscite and its freedom from any suspicion of intimidation. I do not share this fear myself because I received the impression in New Delhi that India recognizes that any plan I prepare will necessarily contain provisions which will ensure that the will of the inhabitants of the plebiscite area is freely expressed, uninfluenced by the presence of troops or by the fear of consequences or by other apprehensions, and that in all other respects the plebiscite is fairly conducted. I believe it was also recognized in Delhi that provisions such as I have in mind, operating in a limited plebiscite area, are not open to the objections which might be made to them if they applied throughout the whole State of Jammu and Kashmir.

It would be unfortunate, however, if you were to attend a making in Karachi only to find that you could not consider

the plan on its merits as a whole because you objected to the particular provisions which I felt it necessary to adopt to secure the plebiscite from any suspicion that it was not free and fair. I think, therefore, that I should inform you in advance that my plan will include a provision for the setting up, in the limited plebiscite area, of an administrative body to carry on in that area the functions of government until the poll is declared. The chairman will be the Plebiscite Administrator or his representative. There will be other United Nations officers. They will be persons of administrative experience and it will be their function to carry on the administration of government in the limited area and not to frame any new policies. Their powers will be ample to exclude from the area all troops of every description. If they decide that for any purpose troops are necessary, the parties must provide them upon request. Their powers will also enable them to secure equality to India and Pakistan in any right granted to lay their views before the people and in other respects.

I have stated this because I do not wish to hold a meeting which is bound to be nothing but a formality. If you are of the opinion that the inclusion in my plan of such provisions in order to secure the freedom and fairness of the plebiscite makes it impossible for you to accept the plan, even after considering it as a whole, and that a meeting would therefore be futile, I will be grateful if you will so inform me. Otherwise it only remains for me to set about the preparation of my plan, and that will occupy me for about four days from the receipt of your reply. After that I should like to convene a meeting in Karachi at the earliest date convenient to you. When I know what date would suit you, it would be then necessary for me to consult Mr. Liaquat Ali Khan as to its being convenient to him.

(Signed) Owen Dixon
United Nations Representative
for India and Pakistan

2. Text of the Telegram dated 16 August 1950 from the Prime Minister of India Jawaharlal Nehru to the United Nations Representative for India and Pakistan Mr. Owen Dixon

Thank you for your message of 15 August which I received today. I have given its contents anxious thought and am communicating to you frankly my considered reactions to it. I must confess to you that your message surprised me greatly. The main proposal in it in regard to conditions governing the plebiscite is completely novel, and has not been previously mentioned at any stage during the last two years or more.

We have not opposed at any time an overall plebiscite for the State as a whole, but you made some alternative suggestions because you came to the conclusion that there were no prospects of an agreement as to conditions preliminary to such a plebiscite. On this basis I informed you that India was prepared to discuss alternative plan involving a partial plebiscite, provided Pakistan was also prepared to do so.

We have always recognized that any plan for a plebiscite should be such that the people concerned would be enabled to express their feelings freely and without fear. But your present proposal of setting up a new administrative body to carry on the functions of government is entirely opposed to our basic stand on the Kashmir issue. None of us here got the impression during our talks with you in New Delhi that anything like this was in your mind. All that we discussed was the conditions governing the overall plebiscite. What you have suggested now goes far beyond anything that we could possibly consider or accept or what, in my view, the requirements of a fair and impartial plebiscite would justify. Your proposals would involve the supersession of the lawful government of the State for a period. We cannot agree to this in any way and for any period.

Your proposal envisages the participation of Pakistan in the plebiscite and the calling in of Pakistan troops. Both would, in effect, constitute a surrender to aggression.

It has always been our view that, in the event of a plebiscite, the people of Kashmir should decide their future for themselves. Kashmiris who have gone out of the State should, of course, be entitled to return for this purpose. But I do not think that others have any claim to participate in a plebiscite campaign.

Whatever steps may be taken, we have always made it clear that the security of the State cannot be endangered. We have had painful experience of aggression and we cannot afford to take further risks of this kind. On no account can we permit any Pakistan troops to enter the plebiscite area.

Before concluding I should like to make one further observation. In the second paragraph of your message you say that for certain reasons the Prime Minister of Pakistan has expressed to you the unwillingness of his Government to receive or consider any alternative proposal or plan. Later on, you say that Pakistan is ready to attend the conference on the footing that the presence in your intended plan of provision for a limited plebiscite will not prove an insuperable objection. There seems to be a contradiction between the two positions and I am puzzled. This hardly justifies any optimism regarding the genuineness of the desire of Pakistan to seek a settlement on the basis of alternative principles of a partial plebiscite.

There are many other aspects of this matter which deserve consideration, but I do not wish to lengthen this reply. Should you, however, come to New Delhi, I would be glad to explain our position fully to you to avoid any possibility of any misunderstanding.

(Signed) Jawaharlal Nehru
Prime Minister of India

3. *Text of the Telegram dated 18 August 1950 from the United Nations Representative for India and Pakistan Mr. Owen Dixon to the Prime Minister of India Mr. Jawaharlal Nehru*

Thank you for your message sent 16 August. I had not

thought that in a plan for partition a provision for setting up, in a limited plebiscite area, an administrative body to carry on the functions of government in that area during the period of the plebiscite could be opposed to any stand previously taken by India. Once the territory of the State of Jammu and Kashmir outside the limited area is divided under such a plan between India and Pakistan, each obtains an independent legal title to the part allotted to it. The occupation by Pakistan of the territory allotted to it would be in virtue of the title which partition would give it and could not be described as that of an aggressor. Which party to the partition is to have the area reserved for the plebiscite would, under such a plan, depend upon the vote of the inhabitants instead of the immediate operation of the agreement, and I do not understand how in such a settlement the doctrine that Pakistan is an aggressor having no legitimate interest could continue to apply.

The United Nations body with the Plebiscite Administrator at its head would derive its powers from the Government of the State, in the same way as might any other provincial or district administration. Elsewhere in the State the existing State Government would exercise its full authority, except in the territory allocated in the partition to Pakistan. In many respects the ordinary working of the machinery of the State would go on in the plebiscite area, but the United Nations Administration would be in control. The view that the lawful government of the State would be superseded does not appear to me to take sufficient account of these considerations or of the relative size of the area involved. When, at the conference between yourself, the Prime Minister of Pakistan and myself at New Delhi, I put forward the proposal that to ensure the freedom and fairness of the overall plebiscite the government of the State should be temporarily entrusted to a body of administrators representing the United Nations, you advanced similar objections. But apart altogether from the answers to them which I then submitted to you, they do not appear to me to apply to partition and a vote in a limited area.

I have insisted always that the freedom of the plebiscite from intimidation or unfairness, and from suspicion of intimidation or unfairness, must be secured at all hazards, and I believe that I have made it clear that I think that very real dangers of that kind exist, from which it must be guarded. The establishment of a temporary administrative body of the United Nations in a limited area to insure the removal of all suspicion that the vote is not free and fair appears to me to be both necessary and just and not to go beyond what in the circumstances is justified for the purpose of safeguarding the plebiscite.

It is hardly necessary to tell you how unfortunate I feel the difference in our standpoint to be. I will gladly come to New Delhi as you suggest so that any possibility of misunderstanding may be avoided. I shall fly down on Saturday morning.

(Signed) Owen Dixon
United Nations Representative
for India and Pakistan

4. Text of the Letter dated 23 August 1950 from the United Nations Representative for India and Pakistan Mr. Owen Dixon to the Prime Ministers of India and Pakistan

It appears to me that independently of any determination of the question of the destination of the State of Jammu and Kashmir or of any part of it, an obligation rests upon both the Government of India and the Government of Pakistan to make a mutual reduction of the armed forces of the respective countries in the territory of that State, so as to remove the danger to peace which must continue while the two armies face each other across a cease-fire line.

I have found it impossible to bring about any agreement upon the substantive dispute between the two Governments, whether that dispute be regarded as one concerning the taking of a plebiscite by which the inhabitants will settle the

fate of the State, or more widely as one concerning the fate of the State. But in my opinion that is no reason why the two countries should continue to maintain opposed armies in position separated only by a cease-fire line. The line may be sufficiently kept by check-posts and such other measures as are commonly adopted upon an inland frontier between two countries at peace for the purpose of preventing or controlling entry and exit. Nothing but a common plan of military character is needed to bring about such a state of affairs. It appears to me to be entirely a military matter to be arranged between the Chiefs of Staff of the two countries.

I, therefore, have the honour to request that you will join with the Government of [Pakistan] [India] in causing a meeting of the Chiefs of Staff of the two countries to be held for the purpose of making the necessary arrangements for bringing about the required change in the manner in which the cease-fire line is held and reducing accordingly the military forces now serving in the State of Jammu and Kashmir on behalf of the respective countries. I request that this meeting should be held within a fortnight.

(Signed) Owen Dixon
United Nations Representative
for India and Pakistan

5. Text of the Reply dated 27 August 1950 from the Prime Minister of India Mr. Jawaharlal Nehru to the United Nations Representative for India and Pakistan

Thank you for your letter of 23 August. I have gone into your suggestion with my military advisers. We do not consider that it is desirable now to arrange a meeting of Chiefs of Staff of India and Pakistan. But we are prepared to reduce, of our own accord, the strength of Indian forces now in Jammu and Kashmir by 20 to 25 per cent. The suggestion that the cease-fire line may be maintained merely by using check-posts and other similar measures, does not

appear to be feasible. So long as the Kashmir dispute is not settled, effective measures are necessary to ensure the security of the State against possible aggression. If, as we hope, Pakistan also desires a settlement of the dispute by peaceful means, there should be no danger of incidents along the cease-fire line that endanger peace, and United Nations observers can help in the loyal observance by both sides of the cease-fire agreement.

(Signed) Jawaharlal Nehru
Prime Minister of India

Frank P. Graham Report

Supporting Documents

1. Text of the Resolution adopted by the UN Security Council on 30 March 1951

Having received and noted the report of Sir Owen Dixon the United Nations Representative for India and Pakistan, on his mission initiated by the Security Council resolution of 14 March 1950;

Observing that the Governments of India and Pakistan have accepted the provisions of the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, and have reaffirmed their desire that the future of the State of Jammu and Kashmir shall be decided through the democratic method of a free impartial plebiscite conducted under the auspices of the United Nations;

Observing that on 27 October 1950 the General Council of the "All Jammu and Kashmir National Conference" adopted a resolution recommending the convening of a Constituent Assembly for the purpose of determining the "Future shape and affiliations of the State of Jammu and Kashmir"; observing further from statements of responsible authorities that action is proposed to convene such a Constituent

Assembly and that the area from which such a Constituent Assembly would be elected is only a part of the whole territory of Jammu and Kashmir;

Reminding the Governments and Authorities concerned of the principle in the Security Council resolutions of 21 April 1948, 3 June 1948 and 14 March 1950 and the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949, that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations;

Affirming that the convening of a Constituent Assembly as recommended by the General Council of the "All Jammu and Kashmir National Conference", and any action that Assembly might attempt to take to determine the future shape and affiliation of the entire State or any part thereof would not constitute a disposition of the State in accordance with the above principle;

Declaring its belief that it is the duty of the Security Council in carrying out its primary responsibility for the maintenance of international peace and security to aid the parties to reach an amicable solution of the Kashmir dispute and that a prompt settlement of this dispute is of vital importance to the maintenance and international peace and security;

Observing from Sir Owen Dixon's report that the main points of difference preventing agreement between the parties were:

(a) The procedure for and the extent of demilitarization of the State preparatory to the holding of a plebiscite, and

(b) The degree of control over the exercise of the functions of government in the State necessary to ensure a free and fair plebiscite,

The Security Council

Accepts, in compliance with his request, Sir Owen Dixon's resignation and expresses its gratitude to Sir Owen for the great ability and devotion with which he carried out his mission;

Decides to appoint a United Nations Representative for India and Pakistan in succession to Sir Owen Dixon;

Instructs the United Nations Representative to proceed to the sub-continent and, after consultation with the Governments of India and Pakistan, to effect the demilitarization of the State of Jammu and Kashmir on the basis of the United Nations Commission for India and Pakistan resolutions of 13 August 1948 and 5 January 1949;

Calls upon the parties to co-operate with the United Nations Representative to the fullest degree in effecting the demilitarization of the State of Jammu and Kashmir;

Instructs the United Nations Representative to report to the Security Council within three months from the date of his arrival on the sub-continent. If, at the time of this report, he has not effected demilitarization in accordance with paragraph 3 above, or obtained the agreement of the parties to a plan for effecting such demilitarization, the United Nations Representative shall report to the Security Council those points of difference between the parties in regard to the interpretation and execution of the agreed resolutions of 13 August 1948 and 5 January 1949 which he considers must be resolved to enable such demilitarization to be carried out;

Calls upon the parties, in the event of their discussions with the United Nations Representative failing in his opinion to result in full agreement, to accept arbitration upon all outstanding points of difference reported by the United Nations Representative in accordance with paragraph 5 above; such arbitration to be carried out by an Arbitrator, or a panel of Arbitrators, to be appointed by the President of the International Court of Justice after consultation with the parties;

Decides that the Military Observer Group shall continue to supervise the cease-fire in the State;

Requests the Governments of India and Pakistan to ensure that their agreement regarding the cease-fire shall continue to be faithfully observed and calls upon them to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations and to refrain from any action likely to prejudice a just and peaceful settlement;

Requests the Secretary-General to provide the United Nations Representative for India and Pakistan with such services and facilities as may be necessary in carrying out the terms of this resolution.

2. *Text of the Letter dated 7 September 1951 addressed to the Prime Ministers of India and Pakistan from the United Nations Representative for India and Pakistan Mr. Frank P. Graham regarding proposals for an agreement (UN Document No. S/2017/Rev-1)*

As United Nations Representative for India and Pakistan appointed by the Security Council under the terms of its resolution of 30 March 1951, I have been trying during the past two months to ascertain the points of view of your Government and the Government of . . . in carrying out the demilitarization of the State of Jammu and Kashmir on the basis of the UNCIP resolutions of 13 August 1948 and 5 January 1949.

Both Governments have sent me communications which have been of great value for my understanding of their approach to the problems which have arisen in the implementation of the already agreed resolutions of 13 August 1948 and 5 January 1949.

After most careful thought I have come to the conclusion that a compromise could be framed in such a way as to enable the Government of India and Pakistan to implement their

commitments under the above-mentioned UNCIP resolutions, and to create an atmosphere of goodwill and understanding between the two countries for the settlement of the question.

In view of the above, and to facilitate an opportunity to both Governments to draw up a plan of demilitarization, I have the honour to request your Government and the Government of . . . to consider the following proposals for an agreement:

The Governments of India and Pakistan :

1. Reaffirm their determination not to resort to force and to adhere to peaceful procedures and specifically pledge themselves that they will not commit aggression or make war, the one against the other, with regard to the question of Jammu and Kashmir;

2. Agree that each Government, on its part, will instruct its official spokesmen and will urge all its citizens' organizations, publications and radio stations not to make warlike statements or statements calculated to incite the people of either nation to make war against the other with regard to the question of Jammu and Kashmir;

3. Reaffirm their will to observe the cease-fire effective from 1 January 1949 and the Karachi Agreement of 27 July 1949;

4. Reaffirm their acceptance of the principle that the question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations;

5. Agree that, subject to the provisions of paragraph 11 below, the demilitarization of the State of Jammu and Kashmir contemplated in the UNCIP resolutions of 13 August 1948 and 5 January 1949 shall be effected in a single, continuous process;

6. Agree that this process of demilitarization shall be completed during a period of ninety days, unless another period is decided upon by the representatives of the Indian and Pakistan Governments referred to in paragraph 9 below;

7. Agree that the demilitarization shall be carried out in such a way that at the end of the period referred to in paragraph 6 above the situation will be:

(a) On the Pakistan side of the cease-fire line:

- (i) The tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn;
- (ii) The Pakistan troops will have been withdrawn from the State; and
- (iii) Large-scale disbandment and disarmament of the Azad Kashmir forces will have taken place.

(b) On the Indian side of the cease-fire line:

- (i) The bulk of the Indian forces in the State will have been withdrawn; and
- (ii) Further withdrawals or reductions, as the case may be, of the Indian and State armed forces remaining in the State after the completion of the operation referred to in sub-paragraph (b) (i) above will have been carried out,

so that at the end of the period referred to in paragraph 6 above there will remain on the present Pakistan side of the cease-fire line a force of . . . civil armed forces, and on the Indian side of the cease-fire line a force of . . . ; (It is requested that the blank spaces be filled in by your Government.)

8. Agree that the demilitarization shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period referred to in paragraph 6 above;

9. Agree that representatives of the Indian and Pakistan Governments, assisted by their military advisers, will meet, under the auspices of the United Nations, to draw up a programme of demilitarization in accordance with the provisions of paragraphs 5, 6, 7 and 8 above;

10. Agree that the Government of India shall cause the Plebiscite Administrator to be formally appointed to office not later than the final day of the demilitarization period referred to in paragraph 6 above;

11. Agree that the completion of the programme of demilitarization referred to in paragraph 9 above will be without prejudice to the functions and responsibilities of the United Nations Representative and the Plebiscite Administrator with regard to the final disposal of forces as set forth in subparagraph 4 (a) and (b) of the 5 January 1949 resolution;

12. Agree that any differences regarding the programme of demilitarization contemplated in paragraph 9 above will be referred to the Military Adviser of the United Nations Representative, and, if disagreement continues, to the United Nations Representative, whose decision shall be final.

I should be grateful if you would give me:

(a) Your comments on each separate paragraph, and your suggestions, and

(b) Your detailed plans for carrying out the demilitarization of the State of Jammu and Kashmir under the UNCIP resolutions of 13 August 1948 and 5 January 1949.

Considering the time that has elapsed since my arrival on the sub-continent and taking into account my terms of reference, I sincerely hope that your Government will understand that I am anxious to receive your written reply as soon as possible.

(Signed) Frank P. Graham
United Nations Representative
for India and Pakistan

3. *Text of the Letter dated 11 September 1951 addressed to the United Nations Representative for India and Pakistan Mr. Graham from the Prime Minister of India Mr. Jawaharlal Nehru regarding the proposals for an agreement*

I have the honour to reply to your letter of 7 September 1951, which you handed to me personally that day.

As you are aware, we were glad to meet you and your associates as we are eager to find a way to a peaceful settlement of the Kashmir question. We made it clear to you, however, at the very outset of our discussions, which were informal, that, for the reasons explained by our permanent representative to the Security Council, Sir Benegal N. Rau, we have found ourselves unable to accept the Council's resolution dated 30 March 1951, and that our discussions were without prejudice to this stand of the Government of India. The views that my Government are submitting now on your proposals are similarly without prejudice to that stand.

We are in complete agreement with paragraph 1 of your proposals; it represents a policy that we ourselves have been urging upon the Government of Pakistan for a long time. We would also add that India has not committed aggression against Pakistan or made war on that country and has no intention of doing so.

As regards paragraph 4, the Government of India not only reaffirms its acceptance of the principle that the question of the continuing accession of the State of Jammu and Kashmir to India shall be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations, but is anxious that the conditions necessary for such a plebiscite should be created as quickly as possible. It is with this object, and this object alone, in view that it has examined your proposals.

It is clear to the Government of India that the security of the State of Jammu and Kashmir from invasion or large-scale infiltration of hostile element will not be effectively ensured until the spirit and temper of war that now prevail on the other side of the cease-fire line and in Pakistan have been demonstrably replaced by a firm will to settle the Kashmir question peacefully. Nor will it be possible to make any headway with arrangements for holding a plebiscite until this condition is satisfied. The Government of India greatly doubts whether this will be practicable within the period of ninety days mentioned in paragraph 6 of the proposals or such other period as may be agreed upon in terms of paragraph 6 and paragraph 9. The Government of India is willing to carry out the withdrawal of the bulk of the Indian forces in the State by the end of this period, provided the operations described in sub-paragraphs 7 (a) (i), (ii) and (iii) of the proposals are progressively completed by the end of that period.

In the opinion of the Government of India, sub-paragraph 7 (b) (ii) should be omitted. It feels that the further withdrawals or reductions referred to in this part of the proposals cannot be related to the period to be fixed in terms of paragraphs 6 and 9; these can be realized only progressively thereafter as the fear of incursions into the State or renewal of aggression diminishes, and completed when the fear completely disappears. Both the period during which these further withdrawals or reductions are to be made, and their phasing and quantum cannot be determined realistically at present. I would point out that the withdrawal of its forces which the Government of India is prepared to make under sub-paragraph 7 (b) (i) of the proposals, and which is specified in paragraph 8 of this letter, will be considerably in excess of "the bulk of the Indian forces". It would leave in the State the very minimum force necessary to prevent infiltration. Any further reduction could only take place at some risk. The Government of India will be glad, however, to consider this problem with the United Nations Representative from time to time and to give effect to the measures that may be agreed

upon between them to make further withdrawals or reductions. It wishes me to give you the assurance that it is its policy to reduce its forces in the State to the minimum necessary to safeguard its security; the greater the measure of security that the State enjoys from threats of incursion or aggression, the smaller will be this minimum.

As regards the civil armed forces to be maintained on the Pakistan side of the cease-fire line at the end of the period agreed upon in terms of paragraph 6 and paragraph 9, the Government of India would agree to a force of 4,000 organized, equipped and composed as recommended to UNCIP in item C of the memorandum transmitted to Mr. Lozano under cover of letter No. 248-PASG/49 dated 13 April 1949, by their Secretary-General in the Ministry of External Affairs.

In pursuance of what has been stated in paragraph 6 of this letter, the Government of India will retain on its side of the cease-fire line in Jammu and Kashmir, one line of communication area headquarters and one infantry division (normal) but of four brigades of four battalions each, at the end of the period agreed upon in terms of paragraphs 6 and 9 of the proposals, provided that the operations described in sub-paragraphs 7 (a) (i), (ii) and (iii) of the proposals have been completed by the end of that period. Thus much more than the "bulk of Indian forces in the State" will have been withdrawn, and I wish to emphasize that the forces left behind will be wholly inadequate to resist any large-scale aggression. Effective measures to prevent such aggression will, it is presumed, be taken by Pakistan.

About paragraph 10 of the proposals, the Government of India agrees that the Plebiscite Administrator should be appointed as soon as conditions in the State, on both sides of the cease-fire line, permit of a start being made with the arrangements for carrying out the plebiscite. To appoint the Plebiscite Administrator before he can function effectively would be premature. The Government of India would therefore prefer such a proposal to be omitted from the present

document; it would be more appropriately included in proposals that deal specifically and in detail with the holding of the plebiscite and connected matters.

The Government of India has no other comments or suggestions to make on the proposals.

(Signed) Jawaharlal Nehru
Prime Minister
and Minister of External Affairs
of India

4. *Text of the Letter dated 12 September 1951 addressed to the United Nations Representative for India and Pakistan Mr. Graham from the Prime Minister of Pakistan Mr. Liaquat Ali Khan regarding the proposals for an agreement*

I have the honour to refer to your letter dated 7 September 1951, asking for the comments and suggestions of the Pakistan Government with regard to proposals for carrying out the demilitarization of the State of Jammu and Kashmir under the two agreed UNCIP resolutions of 13 August 1948 and 5 January 1949.

The UNCIP resolutions envisage demilitarization in two stages. The first stage provides for the withdrawal of tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting, the Pakistan troops and the bulk of the Indian forces (vide part II of the resolution of 13 August 1948). At the end of this stage the forces remaining in the State on the two sides of the cease-fire line will be (1) the Azad Kashmir forces and (2) the remainder of the Indian forces after the withdrawal of the bulk, and the State armed forces, i.e., the State Army and State Militia. After the first stage of demilitarization has been completed, the Plebiscite Administrator will be formally appointed to office, and together with the United Nations Representative, will determine the final disposal of the forces remaining in the State, namely, the Azad Kashmir forces, on the one hand, and the remainder of the Indian forces and the State armed forces,

on the other, vide paragraph 4 of the UNCIP resolution of 5 January 1949.

The proposals set out in your letter provide that the demilitarization of the State contemplated in the UNCIP resolutions, instead of being effected in two stages, should be carried out in a single continuous process, and that the Plebiscite Administrator should be formally appointed to office not later than the final day of the demilitarization period. The completion of the programme of demilitarization referred to above will, however, be without prejudice to the functions and responsibilities of the United Nations Representative and the Plebiscite Administrator with regard to the final disposal of such forces as may remain at the end of this programme.

Since the demilitarization contemplated in the UNCIP resolutions would be equally achieved by the proposals in your letter, the Government of Pakistan is in general agreement with them.

The comments and suggestions of the Pakistan Government in respect of each paragraph of the above mentioned proposals are given below:

Paragraph 1—Agreed.

Paragraph 2—Agreed.

Paragraph 3—Agreed.

Paragraph 4—Agreed.

Paragraph 5—Agreed.

Paragraph 6—Agreed.

Paragraph 7—Agreed subject to the following comments:

- (i) It is presumed that the term "further withdrawals or reductions" mentioned in sub-paragraph 7 (b) (ii) refers to the "large-scale reduction and disarmament" envisaged by the UNCIP under paragraph 4 of the resolution of 5 January 1949, (vide aide-

memoire given by Mr. A. Lozano to the Minister for Foreign Affairs of Pakistan on 25 December 1948 [S/1196, annex 5]).

- (ii) After the large-scale reduction and disbandment of forces on both sides of the cease-fire line contemplated by UNCIP under paragraph 4 of the resolution of 5 January 1949 has taken place there will necessarily be left some Azad Kashmir forces on one side and some armed forces on the other. If it is intended that these forces should be of the status of civil armed forces, the same considerations will apply on both sides of the cease-fire line.
- (iii) Having regard to the objects stated in paragraph 8 of the proposals and the paramount importance of ensuring the freedom of the plebiscite, the forces left in the State at the end of the demilitarization period should be as small as possible. The Pakistan Government considers that a force of not more than four infantry battalions (with the necessary administrative units) should remain on each side of the cease-fire line at the end of the demilitarization programme envisaged in paragraph 7. These figures are based on a careful consideration of all relevant factors such as area, terrain, size and distribution of population on the two sides of the cease-fire line.

The Pakistan Government is, however, of the view that so long as the forces on each side of the cease-fire line are of the order indicated above, some slight difference in the strength or description of the two forces should not stand in the way of an agreement being reached.

Paragraph 8—Agreed.

Paragraph 9—Agreed.

Paragraph 10—Agreed. The Pakistan Government wishes to emphasize the importance of appointing the

Plebiscite Administrator formally to office as early as possible. The UNCIP resolutions contemplate his appointment in the middle of the programme of demilitarization. It is hoped that he would be appointed to office as much in advance of the final day of demilitarization as possible.

Paragraph 11—Agreed.

Paragraph 12—Agreed.

It will be recalled that in their informal talks with you, Pakistan representatives urged that a provision should be made in the agreement that any differences regarding the interpretation of the agreement should be referred to the United Nations Representative whose decision should be final. The experience of the last two and one half years underlines the necessity for such a provision. Without it, there would be no means of resolving deadlocks that might arise. The Pakistan Government is of the view that any future agreement should contain a clause to this effect.

The foregoing observations give the comments and the suggestions of the Pakistan Government on the proposals contained in your letter. As regards the detailed plans of the Pakistan Government for carrying out the demilitarization of the State of Jammu and Kashmir under the UNCIP resolutions of 13 August 1948 and 5 January 1949, reference is invited to the memorandum which was given to you on 22 July 1951. The memorandum is reproduced as an appendix to this letter. It is necessary to point out that the memorandum was drawn up on the basis of two distinct stages of demilitarization as envisaged in the UNCIP resolutions. The Pakistan Government is equally ready to carry out the programme of demilitarization in a single continuous process. A detailed programme of demilitarization can only be drawn up after an agreement is reached as to the quantum of forces which will remain at the end of the demilitarization period. Paragraph 9 of the proposals in your letter lays down the appropriate procedure for drawing up such a detailed programme.

The Pakistan Government has always been willing and anxious to carry out in full the obligations undertaken by it under the agreed UNCIP resolutions. I trust that your informal discussions with Pakistan representatives and the terms of this reply will have convinced you of Pakistan's earnest desire to co-operate in the fullest degree in the vital task entrusted to you by the Security Council.

The principles of the United Nations Charter and the maintenance of international peace alike demand that conditions be created in the State of Jammu and Kashmir as speedily as possible for the holding of a free and impartial plebiscite under United Nations auspices so that the people of the State can freely exercise their right of self-determination and decide the question of the accession of the State to India or to Pakistan.

(Signed) Liaquat Ali Khan
Prime Minister of Pakistan

APPENDIX

Memorandum of Pakistan, dated 22 July 1951 on demilitarization of the State of Jammu and Kashmir on the basis of the UNCIP resolutions of 13 August 1948 and 5 January 1949

1. On 1 January 1949, when the cease-fire came into effect, the armed forces engaged in the State of Jammu and Kashmir were constituted as follows:

On the Pakistan side there were :

- (i) The tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting;
- (ii) Regular troops of the Pakistan Army; and
- (iii) The Azad Kashmir forces.

On the Indian side of the cease-fire line, the forces engaged consisted of

- (i) Regular Indian armed forces;
- (ii) State armed forces, which include the State Army and the State Militia.

2. The UNCIP resolutions of 13 August 1948 and 5 January 1949 envisage demilitarization in two stages. The first stage provides for the withdrawal of the tribesmen, Pakistan volunteers, the Pakistan troops and the bulk of the Indian forces, vide part II of the resolution of 13 August 1948. The second stage covers the final disposal of all the remaining forces, namely, the Azad Kashmir forces, on the one hand, and the balance of the Indian forces (after the withdrawal of "the bulk") and the State armed forces, on the other (vide paragraph 4 of the resolution of 5 January 1949).

3. The Chairman of the Commission explained to the Minister for Foreign Affairs of Pakistan on 31 August 1948, that "the Commission had taken great pains to assure a military balance on both sides, and the element of balance had been continually at the back of the Commission's mind while drafting the resolution" (UNCIP's summary record of the meeting held in Karachi on 31 August 1948).

4. Part II of the resolution of 13 August 1948 provides for the formulation of a truce agreement on the basis of the following principles:

- (i) Pakistan will use its best endeavours to secure the withdrawal of tribesmen and Pakistan volunteers.
- (ii) The Government of Pakistan agrees to withdraw its troops from Jammu and Kashmir.
- (iii) When the Government of India is notified that tribesmen and Pakistan volunteers have withdrawn, and that Pakistan forces are being withdrawn, India agrees to begin to withdraw the bulk of its forces from the State in stages to be agreed with the Commission.
- (iv) In agreement with the Commission, India will maintain, within the lines existing at the moment of

the cease-fire line, only such forces as are considered necessary to assist, the local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.

5. Although the obligation to persuade the tribesmen and Pakistan volunteers to withdraw would arise only after the signing of the truce agreement, Pakistan, as a proof of its good intentions and with a view to expediting the plebiscite, has discharged this obligation without waiting for the conclusion of the truce agreement. The only action still to be taken under part II of the resolution of 13 August 1948 is, therefore, to arrange the withdrawal of the Pakistan troops and of the bulk of the Indian forces.

6. Part II, section B, paragraph 2 of the 13 August 1948 resolution states that the Government of India will maintain "within the lines existing at the moment of the cease-fire those forces of its army which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order". This provision clearly shows that during the truce stage India is to retain its forces only on its side of the cease-fire line. At the meeting held on 31 August 1948, the Chairman of the Commission stated that the defence of the territory to be evacuated by the Pakistan troops would be the responsibility of the "local authorities" (i.e., the Azad Kashmir Government), and that "no Indian soldier would tread on the evacuated territory" (UNCIP's summary record of the meeting held on 31 August 1948). The cease-fire line having been determined with the agreement of the Governments of India and Pakistan, the Indian claim to station garrisons in the areas north of the cease-fire is not tenable.

7. It is equally clear that under part II, section B, paragraph 2, of the 13 August 1948 resolution India can retain only the minimum forces required to assist the local authorities in the observance of law and order on the Indian side of the cease-fire line. Sir Benegal N. Rau told the Security

Council on 1 March, 1951 [533rd meeting] that only "a small portion" of the Indian forces was to remain in the State to ensure its security. In its letter dated 3 September 1948 [S/1100, para. 90], the Commission stated that it considered itself "free to hear the views of the Government of Pakistan" on the strength of the Indian forces to be retained under part II, section B, paragraph 2, of the resolution of 13 August 1948. It is the responsibility of the United Nations Representative to determine the strength of the Indian forces required to assist the local authorities in the observance of law and order under part II, section B, paragraph 2, of the 13 August 1948 resolution after hearing India and Pakistan. The rest of the Indian forces constitute "the bulk" and have to be withdrawn during the truce stage.

8. In paragraph 10 of the appendix to its letter dated 27 August 1948 to the Minister for Foreign Affairs of Pakistan [S/1100, annex 27], the United Nations Commission for India and Pakistan assured the Government of Pakistan that "synchronization of the withdrawal of the armed forces of the two Governments will be arranged between the respective High Commands and the Commission".

9. The following procedure should, in the view of the Pakistan Government, be followed for implementing the first stage of the demilitarization programme:

- (i) After considering the views of India and Pakistan, the United Nations Representative should determine the strength of the Indian forces required to assist local authorities in the observance of law and order on the Indian side of the cease-fire line under part II, section B, paragraph 2, of the resolution of 13 August 1948. The United Nations Representative should take into account the fact that, Pakistan having given a firm guarantee against any incursion by tribesmen, there is no threat to the security of the State and that, having regard to the character of the population concerned, only a very small

force is required for maintaining law and order. The strength of the Indian forces to be retained in the State during the truce stage should not exceed three infantry battalions, with the minimum number of administrative units attached. It may be pointed out that this force will be in addition to the State armed forces.

- (ii) The Indian forces in excess of three infantry battalions and attached administrative units would constitute "the bulk" and should be withdrawn.
- (iii) The United Nations Representative should determine the period within which the withdrawal of the Pakistan troops and the bulk of the Indian forces should be completed. A period of three months should be ample for this operation.
- (iv) As a first step, Pakistan should withdraw one infantry battalion by a specified date.
- (v) A week later, a synchronized withdrawal of the remaining Pakistan troops and of the bulk of the Indian forces as defined above should commence and be completed within the prescribed period.
- (vi) The Military Adviser to the United Nations Representative should be charged with the task of drawing up detailed plans for the withdrawal of the forces mentioned in (v) above in consultation with G.H.Q. (Pakistan) and G.H.Q. (India).
- (vii) The United Nations military observers should ensure that the withdrawal of the forces on both sides proceeds according to the detailed plan.

10. At the end of the first stage of demilitarization, the position would be that the tribesmen and Pakistan volunteers, the Pakistan troops and the bulk of the Indian forces would have been withdrawn and peaceful conditions have been restored in the State. The Plebiscite Administrator would then assume charge and the second stage of demilitarization would then come into operation. The Plebiscite Administrator and the United Nations Representative would determine the final

disposal of the remaining Indian forces and State armed forces, on the one hand, and of the Azad Kashmir forces, on the other. This phase of demilitarization has to be carried out in consultation with India in respect of the forces on the Indian side of the cease-fire line, and in consultation with the "local authorities" (i.e., the Azad Kashmir Government) in respect of the Azad Kashmir forces, vide paragraph 4 of the resolution of 5 January 1949.

11. There is no justification for the Indian contention that the reduction and disarming of the Azad Kashmir forces should be undertaken during the first stage of demilitarization, or that this should be linked with the programme of the withdrawal of the bulk of Indian forces. The language of the UNCIP resolutions is too clear to permit any such contention to be raised.

At the Commission's meeting with the Foreign Minister of Pakistan on 31 August 1948, its Chairman "asked the Foreign Minister to take note of the fact that even after the withdrawal of the Pakistan Army, the Azad forces would still muster thirty-five battalions of armed people who were not asked to disarm or withdraw" (UNCIP's summary record of the meeting held on 31 August 1948).

In sub-paragraph 2 (c) of its letter dated 19 September 1948, the Commission assured the Minister for Foreign Affairs of Pakistan that its resolution of 13 August 1948 did not "contemplate the disarmament or disbanding of the Azad Kashmir forces" [S/1100, para. 108].

This position was made equally clear by the Commission to the Government of India before the latter accepted the resolution of 13 August 1948. The Chairman of the Commission told the Prime Minister of India on 17 August 1948 that, according to the provisions of the resolution of 13 August 1948, "limited Government of India forces would remain, and that, on the other side, only the Azad people would remain in their present positions" [S/1100, annex 12].

Up to 18 February 1949, the correct position with regard to the Azad Kashmir forces continued to be accepted by the Government of India. In paragraph 3 of his letter dated 18 February 1949 to the Commission, Sir Girja Shankar Bajpai admitted that "the disarming of Azad Kashmir forces is really a matter of chronology. First, there must be a cease-fire, and, after that, a truce, as envisaged in parts I and II of the Commission's resolution of 13 August 1948. After that, the condition precedent to arrangements for the holding of a plebiscite is the creation of conditions in which Kashmir nationals can return to the area now in the occupation of Azad Kashmir forces. So far as the non-Muslims are concerned, such a movement will not take place until large scale disarming of these forces has been carried out" [S/1430/Rev. 1, annex 7]. It was only in March 1949 that the Government of India began to shift its ground and to suggest that the disposal of the Azad Kashmir forces should be effected during the truce stage.

12. The term "final disposal" in paragraph 4 of the resolution of 5 January 1949 covers withdrawal, disbandment, disarming and location of forces. The Minister for Foreign Affairs of Pakistan was informed on 25 December 1949 that it was the intention of the Commission under this clause to "ensure a large scale reduction and disarmament" of the forces concerned [S/1196, annex 5].

In determining the "final disposal" of forces, it is necessary to pay regard to the view repeatedly expressed by members of the Security Council that, to quote the words of Sir Gladwyn Jebb [532nd meeting], "the best guarantee of a fair expression of the wishes of the people of Kashmir is the removal or disbandment of the military forces of all interested parties".

13. The Pakistan Government considers that the second stage of demilitarization envisaged in paragraph 4 of the resolution of 5 January 1949 should be effected as follows:

- (i) The remaining Indian forces (i.e., three infantry

battalions with their administrative units) should be withdrawn from the State.

- (ii) The State armed forces (namely, the State Army and State Militia) should be reduced to three infantry battalions with the minimum number of administrative units attached. This force should be placed under the control of the Plebiscite Administrator.
- (iii) Similarly, the Azad Kashmir forces should be reduced to three infantry battalions with the minimum number of administrative units attached, and placed under the control of the Plebiscite Administrator.
- (iv) The Military Adviser to the United Nations Representative should work out a detailed plan for the withdrawal of the remaining Indian forces and the co-ordinated reduction and disbandment of the State armed forces on the one hand, and the Azad Kashmir forces, on the other.
- (v) The United Nations Military Observers should supervise the implementation of the plan mentioned in (iv) above.
- (vi) The location and disposition of all forces remaining in the State during the plebiscite should be as determined by the Plebiscite Administrator.

14. Pakistan reiterates its readiness to co-operate fully in effecting the demilitarization of the State of Jammu and Kashmir on the basis of the UNCIP's resolutions of 13 August 1948 and 5 January 1949.

Second Graham Report

Supporting Documents

1. Text of the Resolution adopted by the UN Security Council on 10 November 1951 (UN Document No. 2392)

The Security Council

Having received and noted the report [S/2375] of Mr. Frank Graham, the United Nations Representative for India and Pakistan, on his mission initiated by the Security Council resolution of 30 March 1951, and having heard Mr. Graham's address to the Council on 18 October 1951 [564th meeting].

Noting with approval the basis for a programme of demilitarization which could be carried out in conformity with the previous undertakings of the parties, put forward by the United Nations Representative in his communication of 7 September 1951 to the Prime Ministers of India and Pakistan.

Notes with gratification the declared agreement of the two parties to those parts of Mr. Graham's proposals which reaffirm their determination to work for a peaceful settlement, their will to observe the cease-fire agreement and their acceptance of the principle that the accession of the State of Jammu and Kashmir should be determined by a free and impartial plebiscite under the auspices of the United Nations:

Instructs the United Nations Representative to continue his efforts to obtain agreement of the parties on a plan for effecting the demilitarization of the State of Jammu and Kashmir;

Calls upon the parties to co-operate with the United Nations Representative to the fullest degree in his efforts to resolve the outstanding points of difference between them;

Instructs the United Nations Representative to report to the Security Council on his efforts, together with his views concerning the problems confided to him, not later than six weeks after this resolution comes into effect.

2. Text of the Statement of 7 December 1951 of the United Nations Representative for India and Pakistan and questionnaires addressed to the Governments of India and Pakistan

The hope for an agreement in the Kashmir dispute is based on explicit commitments of a no-war declaration, a policy against war propaganda, reaffirmation of the cease-fire agreement, and actual demilitarization as an inter-dependent and continuous process carried out in stages on both sides of the cease-fire line as part of the preparation for the long promised free and impartial plebiscite. Consequently there is the present opportunity to work out an agreement for the fulfilment of the UNCIP resolutions of 13 August 1948 and 5 January 1949 to which both parties agreed.

The UNCIP resolution of 13 August 1948 comprises a preamble and three parts.

Part I dealt with the cease-fire, which was agreed by India and Pakistan and made effective on 1 January 1949. As a completion of this part of the resolution a cease-fire line was agreed upon by the two Governments under the auspices of the UNCIP in the Karachi agreement of 27 July 1949. The line was demarcated thereafter on the ground.

Part II, entitled "Truce agreement", outlined the way in which the demilitarization of the State should be carried out.

Part III is a reaffirmation of the will of the Governments of India and Pakistan that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people.

The UNCIP resolution of 5 January 1949 dealt with the question of the plebiscite. For the purpose of this statement it should be remembered that sub-paragraphs 4 (a) and (b) of the resolution deal with some aspects of demilitarization in which the Plebiscite Administrator would take some action.

To the United Nations Representative under his terms of reference has been given the responsibility of working out with the parties an agreement for demilitarization in accordance with the provisions of the two resolutions, which provided for demilitarization as follows:

13 AUGUST 1948 RESOLUTION: TRUCE AGREEMENT

"Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in part I, both Governments accept the following principles as basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their representatives and the Commission:

A

1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.
2. The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan

nationals not normally resident therein who have entered the State for the purpose of fighting.

3. Pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

B

1. When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in part II, A. 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agree to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission.
2. Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire those forces of its Army which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.
3. The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within its power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed."

5 JANUARY 1949 RESOLUTION

- "4. (a) After implementation of parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to security of the State and the freedom of the plebiscite.
- (b) As regards the territory referred to in A.3 of part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities."

The timing of the disbanding and disarming of the Azad Kashmir forces had since 1949 become a chief stumbling block. In order to meet this problem, the United Nations Representative proposed that the disbanding and disarming of the Azad Kashmir forces be accomplished by connecting subparagraphs 4 (a) and (b) of the 5 January 1949 resolution with part II of the 13 August 1948 resolution.

As pointed out in the United Nations Representative's report of 15 October 1951 [S/2375, para. 56], the resolution of 5 January 1949 conferred upon the Plebiscite Administrator certain functions with respect to the implementation of subparagraphs 4 (a) and (b) of that resolution. For that reason the appointment of the Plebiscite Administrator was made a part of the twelve proposals.

It is obvious that the demilitarization would not be one sudden, complete undertaking, whether the explicit provision of the two resolutions regarding stages in demilitarization

were followed, or whether there were agreed stages in a continuous process, as now proposed. To this end, proposal 9 of the draft agreement of 7 September 1951 was submitted for the purpose of having the military experts, in consultation with the Governments of India and Pakistan and under the auspices of the United Nations, work out the stages in this continuous process of demilitarization.

To surmount the obstacle regarding war psychosis, the United Nations Representative made proposals contained in the first three of the twelve proposals.

The Security Council has asked us to continue on the basis of the twelve proposals. Tentative agreement has already been reached on a majority of those twelve proposals. If the two Governments reach an agreement (1) on the number of forces to be left at the end of the period of demilitarization, and (2) on fixing a definite time for the induction of the Plebiscite Administrator into office for the assumption of his responsibilities for the final disposal by him of the remaining forces, we believe that an agreement can be reached on all the twelve proposals. We have, therefore, with the co-operation of the representatives of the two Governments confined our discussions to those two propositions.

The number of armed forces to remain at the end of the period of demilitarization should be decisively reduced to the smallest number possible for the final disposal by the Plebiscite Administrator. In order to meet the contention about the security of the State, the United Nations Representative has made a number of proposals for assurances by both Governments against resort to war and war propaganda and for the prevention of invasion and infiltrations into the State of Jammu and Kashmir.

In grappling further with the problem of the security of the State and the freedom of the plebiscite, we have made other proposals in addition to the three submitted in our twelve proposals in the letter of 7 September 1951 addressed

to the Prime Ministers. We have the conviction that these proposals would make actual demilitarization possible and also provide for the security of the State and the creation of a peaceful atmosphere conducive to the holding of a plebiscite.

The very agreement signed by two countries of high international standing, Members of the United Nations and of the Commonwealth of Nations, and approved in the forum of nations, would be itself one of the most effective guarantees of the keeping of the peaceful assurances thus given and ratified before the world.

It would be unfortunate if a failure to follow through and reach an agreement resulted in a reversal of the present development of a more peaceful atmosphere. On the other hand, if these hopes are confirmed and strengthened by a definite agreement between the two Governments, the atmosphere will be further improved and other disputes vital to the welfare of the people can be co-operatively settled to the high advantage of both nations and the world.

It is our faith that the leaders of the two peoples will now seize the opportunity of their destiny.

Questionnaire Addressed to India

Accordingly, the United Nations Representative for India and Pakistan would like to make the following statement:

1. He has been instructed by the Security Council to continue his efforts to obtain agreement of the parties on a plan for effecting demilitarization of the State of Jammu and Kashmir.
2. By letter of 7 September 1951 the United Nations Representative submitted to the Governments of India and Pakistan proposals for an agreement. The Security Council noted:
 "...with approval the basis for a programme of demilitarization which could be carried out in conformity

with the previous undertakings of the parties, but forward by the United Nations Representative in his communication of 7 September 1951 to the Prime Ministers of India and Pakistan".

3. The two main differences between India and Pakistan concerning that programme are related:
 - (a) To the minimum number of forces to be left on each side of the cease-fire line at the end of the period of demilitarization; and
 - (b) The day on which the Government of India would cause the Plebiscite Administrator to be formally appointed to office.
4. The figure given by the Indian Government as the minimum to be left on its side of the State of Jammu and Kashmir at the end of the period of demilitarization before the arrival of the Plebiscite Administrator is 28,000 troops, plus 6,000 militia.

Would it not be possible for the Government of India to accept a considerable reduction in the figure in order to make possible the demilitarization of the State and to obtain the proposed agreement?

5. The Representative of India has stated that effective guarantees should be given for further reduction of these forces.
 - (a) Would it be an adequate guarantee for the Government of India if an agreement is signed on the basis of the twelve proposals contained in the communication of 7 September 1951?
 - (b) If not, would it be adequate if, in addition, United Nations Military observers were stationed in the necessary numbers where it would be deemed appropriate by the United Nations and the Governments of India and Pakistan?
 - (c) If not, is the Indian Government ready to accept forces to be provided by the United Nations in order to safeguard the security of and to

maintain law and order in the whole State of Jammu and Kashmir as long as the United Nations, in consultation with the Governments of India and Pakistan, deems necessary?

(d) If not, what other suggestions is the Indian Government prepared to make in order to obtain demilitarization under the resolutions of the Security Council and the agreed resolutions of the UNCIP of 13 August 1948 and 5 January 1949?

6. Would the Government of India agree to cause the Plebiscite Administrator to be formally appointed to office not later than the final day of the demilitarization period?

Questionnaire Addressed to Pakistan

Accordingly, the United Nations Representative for India and Pakistan would like to make the following statement:

1. He has been instructed by the Security Council to continue his efforts to obtain agreement of the parties on a plan for effecting demilitarization of the State of Jammu and Kashmir.
2. By letter of 7 September 1951 the United Nations Representative submitted to the Government of India and Pakistan proposals for an agreement. The Security Council noted:
 "...with approval the basis for a programme of demilitarization which could be carried out in conformity with the previous undertakings of the parties, put forward by the United Nations Representative in his communication of 7 September 1951 to the Prime Ministers of India and Pakistan".
3. The two main differences between India and Pakistan concerning that programme are related:
 - (a) To the minimum number of forces to be left on each side of the cease-fire line at the end of the period of demilitarization; and

- (b) The day on which the Government of India would cause the Plebiscite Administrator to be formally appointed to office.

4. Concerning the minimum number of forces to be left at the end of the period of demilitarization, the Government of Pakistan maintains that the same consideration should apply to the status of the forces to be left on each side of the cease-fire line.

On the other hand the Government of India has given the following figures as the minimum to be left on each side of the cease-fire line at the end of the period of demilitarization before the arrival of the Plebiscite Administrator:

- (a) On the Indian side of the cease-fire line : 28,000 troops plus 6,000 militia; and
- (b) On the Pakistan side of the cease-fire line : 4,000 men recruited and organized as mentioned in the report of the United Nations Representative of 15 October 1951 [S/2375, para. 60(3)].

What is the minimum number of forces on both sides of the cease-fire line that the Government of Pakistan is ready to accept on the final day of the period of demilitarization of the State of Jammu and Kashmir?

Would the Government of Pakistan be ready to accept that United Nations military observers be stationed in the necessary numbers where it would be deemed appropriate by the United Nations and the Governments of India and Pakistan?

Would the Government of Pakistan be ready to accept forces to be provided by the United Nations in order to safeguard the security of and to maintain law and order in the whole State of Jammu and Kashmir as long as the United Nations, in consultation with the Governments of India and Pakistan, deems necessary?

Would the Government of Pakistan agree that the Plebiscite Administrator be formally appointed to office not later than the final day of the demilitarization?

3. Text of the Letter dated 11 December 1951 addressed to the permanent representative of India to the United Nations from the United Nations Representative for India and Pakistan Mr. Frank P. Graham

I expressed to you at our meeting of 17 November 1951, held in Paris under the terms of the resolution of the Security Council of 10 November 1951, that I should like to get an answer to sub-paragraph 12 (b) of the letter of 7 September 1951 addressed to the Prime Minister of India.

Having received the information requested from the Government of Pakistan [annex 4 and its appendix, report of the United Nations Representative (S/2375)], now, for its own value and for the purpose of my report, I should be grateful to the representative of India if he would give me at the earliest possible time and preferably not later than Friday, 14 December, the detailed plans of the Government of India for carrying out the demilitarization of the State of Jammu and Kashmir under the UNCIP resolutions of 13 August 1948 and 5 January 1949.

(Signed) Frank P. Graham
United Nations Representative
for India and Pakistan

4. Text of the Letter dated 11 December 1951 addressed to the United Nations Representative for India and Pakistan from the Minister for Foreign Affairs and Commonwealth Relations of Pakistan.

We have read with great interest the statement on the current negotiations to resolve the Kashmir dispute which you gave to us at our meeting on 7 December 1951. We have also received from your secretariat a memorandum giving India's answers to some of the questions which had been

raised by us with regard to certain paragraphs of the Indian Prime Minister's letter dated 11 September 1951 (appendix II), and another memorandum containing some observations by you and a questionnaire with regard to the problem of demilitarization and the formal appointment of the Plebiscite Administrator.

The statement which was given to us on 7 December sets out, if I may say so, clearly and concisely the main fact of the case and the issues which have to be resolved in order to bring about agreement on a demilitarization programme preparatory to the holding of a plebiscite in Jammu and Kashmir. In its resolution dated 30 March 1951, the Security Council asked the United Nations Representative "to effect the demilitarization of the State of Jammu and Kashmir on the basis of the UNCIP resolutions of 13 August 1948 and 5 January 1949". These resolutions taken together constitute the international agreement with regard to Kashmir and are the yardstick by which all proposals for the settlement of the Kashmir dispute must be measured. No departure from the basic provisions of these resolutions can be made without the agreement of both India and Pakistan. So also, the attitude of the two parties with regard to any proposals which may have been put forward to resolve the deadlock must be judged by the extent to which they are prepared to carry out the international commitments which they accepted in the two UNCIP resolutions.

It is necessary to emphasise that the two UNCIP resolutions have to be taken together, and not in isolation. It was only when both the resolutions were accepted by India and Pakistan during Christmas week in 1948 that an agreement emerged, and cease-fire orders were issued by both Governments to take effect from 1 January 1949.

We entirely agree with your observation that "if the two Governments reach an agreement (1) on the number of forces to be left at the end of the period of demilitarization, and (2) on fixing a definite time for the induction of the

Plebiscite Administrator into office for the assumption of his responsibilities for the final disposal by him of the remaining forces" it should be possible to reach agreement on all the twelve proposals set out in your letter dated 7 September 1951.

We also agree that "the number of armed forces to remain at the end of the period of demilitarization should be decisively reduced to the smallest number possible for the final disposal by the Plebiscite Administrator". It has always been recognized by the Security Council that a free and impartial plebiscite is not possible in the presence of substantial numbers of troops of either party. In the words of Sir Gladwyn Jebb, "the best guarantee of a fair expression of the wishes of the people of Kashmir is the removal or disbandment of the military forces of all interested parties" [532nd meeting].

As a result of agreement on some of the proposals contained in your letter of 7 September 1951, there has been an improvement in Indo-Pakistan relations and some reduction in the tension which existed between the two countries at the time of your visit to the Indo-Pakistan sub-continent. The people of both countries have been looking forward to agreement being reached on a programme of demilitarization and the holding of a free and impartial plebiscite. We entirely agree with your remark that "it would be unfortunate if a failure to follow through and reach an agreement resulted in a reversal of the present development of a more peaceful atmosphere. On the other hand, if these hopes are confirmed and strengthened by a definite agreement between the two Governments, the atmosphere will be further improved and other disputes vital to the welfare of the people can be co-operatively settled to the high advantage of both nations and the world".

You will recall that in the meeting which you had with the representatives of India and Pakistan on 15 November 1951, you enquired whether both parties were in a position to let you know their comments, as well as their detailed

points of view on the answer of the other Government to your communication of 7 September 1951. We were prepared to offer our comments, but Sir Benegal N. Rau asked for an adjournment and suggested that it would be better for you to have separate meetings with the representatives of India and ourselves.

At our meeting with you on 16 November, we offered to clarify any point arising out of our Prime Minister's letter of 12 September 1951 [S/2375, annex 4]. I pointed out that, as desired by you, our Prime Minister had given his comments on each separate paragraph of your proposals of 7 September 1951, as well as Pakistan's detailed plans for carrying out the demilitarization of the State of Jammu and Kashmir under the two UNCIP resolutions.

He had stated that Pakistan was equally ready to carry out a programme of demilitarization in two stages, as envisaged in the UNCIP resolutions, and a demilitarization programme in one single continuous process, as proposed by you. We stand by that assurance.

I also explained that our late Prime Minister had accepted, unconditionally, ten out of the twelve proposals made in your letter of 7 September, and that while also accepting the remaining two proposals embodied in paragraphs 7 and 10 of your letter, he had made certain observations which were fully in accord with the UNCIP resolutions and the clarifications given by the Commission to the Government of Pakistan.

The only addition suggested by us was "that a provision should be made in the agreement that any differences regarding the interpretation of the agreement should be referred to the United Nations Representative, whose decision should be final. The experience of the last two and a half years underlines the necessity for such a provision. Without it, there would be no means of resolving deadlocks that might arise".

At the meeting held on 16 November, I was also asked to offer our comments on India's reply to your proposals of 7 September. I made some provisional observations, but submitted that before offering more detailed comments, we would wish to obtain some clarifications of the Indian Prime Minister's letter dated 11 September 1951 [S/2375, annex 3]. In compliance with your wishes, a memorandum was given to Mr. Schmidt on 16 November 1951, with regard to the points on which clarifications were necessary. A copy of that memorandum is attached for ready reference (appendix I).

From a perusal of the memoranda received from you on 7 December [annex 3] and 8 December (appendix II), it is evident that some of the questions suggested by us have not been answered, and in respect of some of other questions, the Indian reply is vague and incomplete.

On the basis of all the information made available to us to date, we have the following comments on the Indian Prime Minister's letter dated 11 September 1951:

Paragraphs 1 and 2: No comments.

Paragraph 3: The Prime Minister of India claims "that India has not committed aggression against Pakistan or made war on that country and has no intention of doing so". We welcome this assurance, but are constrained to observe that over 90 per cent of the Indian Army, including all its armour, has during the last six months been concentrated either in Jammu and Kashmir or along the borders of Pakistan. The aggressive dispositions of India's armed forces are a standing threat to Pakistan's security and to peace in the sub-continent.

Paragraph 4: According to paragraph 1 of the UNCT resolution of 5 January 1949, "The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite". It is, therefore, not correct for the Indian Prime Minister to say that the plebiscite is to determine the question of the continuing accession of the State of Jammu and Kashmir to India".

India claims to be "anxious that the conditions necessary for such a plebiscite should be created as quickly as possible", but has done all it could to delay the plebiscite and to prejudice the result of the plebiscite by permitting the convening of the so-called Constituent Assembly in Indian-occupied Kashmir in total disregard of India's international obligations and the appeals of the Security Council.

Paragraph 5: In view of the solemn international commitments accepted by Pakistan, there is no danger of any "large-scale infiltration of hostile elements" into Jammu and Kashmir, and India's alleged apprehensions on this account are unfounded. We cannot help feeling that these and other considerations are repeatedly put forward simply to justify India's refusal to withdraw its forces from the State.

Pakistan has always been anxious for a peaceful settlement of the Kashmir dispute. But it is natural that its people should be exasperated at India's persistent refusal to honour its commitments. It is incorrect to describe this feeling of dissatisfaction as "the spirit and temper of war", or to use this as an excuse for not giving effect to the plan of demilitarization envisaged in the UNCIP resolutions.

It is significant that while India desires Pakistan to carry out its part of the programme of demilitarization proposed by you within ninety days, India is reluctant to accept any similar firm commitment for itself. In the latest clarifications furnished by India, mention is made of certain "physical and administrative difficulties" which India might have in carrying out the withdrawal of the bulk of its forces within the prescribed period, but no indication has been given of the period within which India is prepared to carry out this operation.

There is also no assurance that the withdrawal of the bulk of the Indian forces would be synchronised with the withdrawal of the Pakistan Army as was promised by the United Nations Commission for India and Pakistan in its letter dated 27 August 1948 to the Government of Pakistan.

Paragraph 6: India has refused to make any commitment as to the period within which it would carry out the further withdrawals or reductions of the Indian Army and State armed forces mentioned in sub-paragraph 7(b) (ii) of your proposals of 7 September 1951. India wishes to remain free to determine what forces are needed for the security of Indian-occupied Kashmir and when any further reductions should take place. The assurance that the Government of India would "consider this problem with the United Nations Representative from time to time and...give effect to the measures that may be agreed upon between them to make further withdrawals or reductions" is of no value because the final decision would rest with the Government of India and not with the United Nations Representative. Pakistan, on the other hand, is required to accept firm commitments for complete demilitarization on its side of the cease-fire line.

The obligations which India and Pakistan accepted under the UNCIP resolutions have been clearly summarized in paragraph 56 of your report to the Security Council [S/2375]. You pointed out that "agreement that the demilitarization of the State of Jammu and Kashmir should be effected in a single continuous process implied, in the opinion of the United Nations Representative, the implementation of part II of the 13 August 1948 resolution together with sub-paragraphs 4 (a) and (b) of the 5 January 1949 resolution, as a whole". In other words, the demilitarization programme should embrace all the fighting elements in the State, namely, tribesmen, Pakistan volunteers, the Pakistan Army and the Azad Kashmir forces, on the one hand, and the Indian Army and the State Army and militia, on the other. India's demand that the demilitarization agreement should omit the further withdrawals and reductions of the Indian and State armed forces proposed in sub-paragraph 7(b) (ii) of your letter of 7 September 1951, is clearly contrary to the UNCIP resolutions. Pakistan obviously cannot agree to the one-sided demilitarization desired by India. Both parties must accept clearly defined and firm commitments, and essential conditions such as the

extent of demilitarization and the stages by which it should be effected, cannot be left to the discretion of either party.

Pakistan also cannot agree that India should be the sole judge of what forces are required to safeguard the security of the State. According to part II, section B, paragraph 2 of the UNCIP resolution of 13 August 1948, India may maintain during the truce stage "within the lines existing at the moment of cease-fire the minimum strength of its forces which in agreement with the Commission"—now the United Nations Representative—"are considered necessary to assist the local authorities in the observance of law and order". (It should be remembered that this force would be in addition to the State Army and militia.) Thereafter, during the plebiscite stage, the United Nations Representative and the Plebiscite Administrator have the right to determine, in consultation with the authorities concerned, the final disposal of all the forces remaining in the State of Jammu and Kashmir, "such disposal to be with due regard to the security of the State and the freedom of the plebiscite" (vide sub-paragraph 4 (a) of the UNCIP resolution dated 5 January 1949).

Paragraph 7: The Government of India has demanded that the Azad Kashmir forces should be totally disbanded and disarmed, and that, for the purpose of maintaining law and order, a police force should be raised consisting of 2,000 armed and 2,000 unarmed men. This force "should consist of persons normally resident in Azad Kashmir territory, half of whom should be followers of Azad Kashmir, and the other half persons who are not followers of Azad Kashmir. This force should be commanded by United Nations officers or locals and not by Pakistan officers" (vide Government of India's letter dated 13 April 1949 to Mr. Lozano, Vice-Chairman of UNCIP). In the latest clarifications received from India it is stated that recruitment of this police force should be made under the supervision of United Nations authorities, who, in determining that a person is not a follower of Azad Kashmir, will be assisted by India's representatives.

There is no warrant in the agreed resolutions of UNCIP for this fantastic proposal. As explained in paragraph 11 of our memorandum dated 22 July 1951 (vide appendix to annex A to your report to the Security Council dated 15 October 1951), the UNCIP resolution of 13 August 1948 did not contemplate the disarming or disbanding of the Azad Kashmir Forces. Sub-paragraph 4(b) of the UNCIP resolution of 5 January 1949 provided that the final disposal of the Azad Kashmir forces will be determined by the Commission (now the United Nations Representative) and the Plebiscite Administrator in consultation with the local authorities. This operation was linked with the final disposal of the balance of the Indian Army (after the withdrawal of the bulk during the truce stage) and the State armed forces (namely, the State Army and militia). (Vide sub-paragraph 4(a) of the UNCIP resolution of 5 January 1949.)

In his memorandum dated 25 December 1948, clarifying the UNCIP proposals of 11 December 1948 (which subsequently become the Commission's resolution of 5 January 1949) Mr. A. Lozano explained to the Government of Pakistan that the object of paragraph 4 of the proposals was "to ensure a large-scale reduction and disarmament, the exact scope of which will be determined by the Commission and the Plebiscite Administrator in consultation with the authorities concerned" (vide the memorandum attached to annex 5 of the second interim report of UNCIP, to the Security Council, document S/1196). Similarly, the Indian Prime Minister was informed by Mr. Lozano, on 21 December 1948, that it was the Commission's intention that there should be large-scale disarming of these forces (vide aide-memoire 1 attached to annex 4 to the second interim report of UNCIP to the Security Council).

It would thus be seen that the assurance given by the Commission to both Governments was that there would be large-scale reduction and disbandment of the forces in the State after part II of the UNCIP resolution dated 13 August 1948 had been implemented. The United Nations Commission

never contemplated total disbandment of the Azad Kashmir forces of their replacement by a police force.

In any case, the Government of India has concern at all with the recruitment and composition of the forces that will remain on the Pakistan side of the cease-fire line. UNCIP categorically assured the Pakistan Government that the defence of territory to be evacuated by the Pakistan troops would be the responsibility of the "local authorities" (i.e. the Azad Kashmir Government), that "no Indian soldier would tread on the evaceue territory", and that no officer of the Government of India or the Maharaja's Government would be permitted to interfere with the administration of Azad Kashmir (vide UNCIP's summary record of the meeting held on 31 August 1948).

There is a further absurdity in the Indian proposals. It has not been explained as to who would be in administrative control of the proposed police force, and to which Government or administration "persons who are not followers of Azad Kashmir" would owe allegiance. If the police force is to be controlled partly by the Azad Kashmir Government and partly by the Government of India or the Maharaja's Government, the police force would not only be militarily useless, but, on account of its divided loyalties, it would almost certainly give rise to internal strife and disorders in Azad Kashmir.

For the reasons summarized above, the proposal made in paragraph 7 of the Indian Prime Minister's letter is totally unacceptable. The Government of Pakistan would, however, be prepared to accept such a proposal if the Government of India were also to agree that all the armed forces on the Indian side of the cease-fire line should be withdrawn or disbanded, and that for the maintenance of law and order the United Nations Representative, assisted by the representatives of India and Pakistan, should recruit a police force of 4,000 to 5,000 men, half armed and half unarmed, half of whom should

be followers of Sheikh Abdulla, and the other half persons who are not followers of Sheikh Abdulla.

Paragraph 8: In the memoranda received from you it has been explained that India wishes to retain at the end of the period of demilitarization before the arrival of the Plebiscite Administrator 28,000 troops and 6,000 militia, but other important details have not been furnished. In order to get a clear picture of the quantity and quality of armed forces India wishes to retain on its side of the cease-fire line, the Government of Pakistan would wish to know whether the 28,000 troops consist of the Indian Army as well as the State Army, and if so, in what proportion. How many of these troops are combatants and how many non-combatants? Does this force also have armour and artillery? If so, how much? What is the normal armament and equipment of the State Militia? Until these questions are clearly answered, Pakistan cannot determine the force which it would need on its side of the cease-fire line to ensure the security of Azad Kashmir and to prevent a breach of the cease-fire agreement.

It might be pointed out that a "normal" infantry division of the Indian Army consist of three brigades of three or four battalions each. In asking for an infantry division of four brigades of four battalions each, plus a line of communication area headquarters, India is in fact asking for the retention of approximately two "normal" infantry divisions of the Indian Army. Since India had little more than three infantry divisions in Jammu and Kashmir at the time of the cease-fire, it is difficult to accept the Indian Prime Minister's claim that he has agreed to the withdrawal of "much more than the bulk of Indian forces in the State".

The Indian Prime Minister has asked that Pakistan should take effective measures to prevent any aggression against the State of Jammu and Kashmir after the proposed demilitarization programme. Pakistan is prepared to do so. What then is the justification for keeping such large forces in Indian-occupied Kashmir? You will recall that before August 1947, the Maharaja of Jammu and Kashmir found that three

battalions of his State forces were more than enough for the maintenance of internal security and law and order in the area on the Indian side of the cease-fire line. An almost equivalent force was kept by the Maharaja in the area on the Pakistan side of the cease-fire line. This was one of the considerations which the Government of Pakistan had in view in suggesting that a force of not more than four infantry battalions (with the necessary administrative units) should remain on each side of the cease-fire line at the end of the demilitarization programme envisaged in your proposals of 7 September 1951.

Paragraph 9: According to the UNCIP resolution of 5 January 1949, the Plebiscite Administrator has to be formally appointed to office as soon as the Commission (now the United Nations Representative) is satisfied that parts I and II of the UNCIP resolution of 13 August 1948 have been implemented (i.e., the tribesmen, Pakistan volunteers, the Pakistan Army and the bulk of the Indian Army have been withdrawn) and that peaceful conditions have been restored in the State. The proposal in paragraph 10 of your letter of 7 September 1951 that the Plebiscite Administrator should be appointed to office not later than the final day of the demilitarization period proposed by you represented an important concession to India. The fact that India is not satisfied even with this concession, and desires that no provision should be made in the proposed demilitarization agreement for the formal appointment of the Plebiscite Administrator shows that India is seeking to resile from its commitments under the UNCIP resolutions. As you have rightly pointed out, the Plebiscite Administrator has to determine the final disposal of the forces in Jammu and Kashmir under sub-paragraphs 4(a) & (b) of the UNCIP resolution of 5 January 1949. The formal appointment of the Plebiscite Administrator is, therefore, an essential part of any agreement for demilitarization in a single continuous process.

The Indian Prime Minister has argued that the proposal for the formal appointment of the Plebiscite Administrator "would be more appropriately included in proposals that deal

specifically and in detail with the holding of the plebiscite and connected matters". This is a fallacious argument. Under the UNCIP resolution of 5 January 1949, the Plebiscite Administrator is responsible for necessary conditions for a free and impartial plebiscite. As a matter of fact, under paragraph 10 of that resolution, the Plebiscite Administrator has to be associated in the discussions which the United Nations Commission (now the United Nations Representative) is to have with India and Pakistan to work out the details of the arrangements necessary for a free and impartial plebiscite.

Paragraph 10: In the latest clarifications received through you, it has been stated that India agrees to paragraphs 8, 9, 11 and 12 of your proposals of 7 September 1951. We take note of this statement.

Paragraph 11 of your proposals provided that the programme of demilitarization proposed by you would be "without prejudice to the functions and responsibilities of the United Nations Representative and the Plebiscite Administrator with regard to the final disposal of forces as set forth in sub-paragraphs 4 (a) and (b) of the 5 January 1949 resolution". It has always been understood by the Government of Pakistan that the term "final disposal" of forces includes power to determine the ultimate strength, location and disposition of all forces in Jammu and Kashmir prior to the holding of the plebiscite.

In the light of the foregoing analysis of the Prime Minister of India's letter dated 11 September 1951, one cannot escape the conclusion that, while seeming to agree in principle, India has not accepted any of the basic provisions of your proposals of 7 September. India has not agreed to the scope of the demilitarization proposed by you, or to the period within which the demilitarization should be carried out, or to the formal appointment of the Plebiscite Administrator not later than the final day of the proposed demilitarization programme. It is a matter of great regret that, notwithstanding the genuine expression of sympathy by the leaders of India in connexion with the tragedy of Mr. Liaquat Ali Khan's assassi-

nation, and the friendly tone of some of the recent utterances of the Indian Prime Minister, there has been no change at all in India's attitude towards the Kashmir dispute since you received Mr. Nehru's letter of 11 September 1951 [S/2375, annex 3].

The Pakistan delegation has carefully studied your memorandum of 7 December 1951 [annex 3] containing some general observations on the problem of demilitarization and asking certain questions of the Pakistan Government. We venture to submit that paragraph 4 of the memorandum is an inadequate summary of Pakistan's views on the question of demilitarization. We consider that :

- (i) The assurances contained in the first three proposals made in your letter of 7 September 1951 rule out the possibility of resumption of fighting in Jammu and Kashmir, and that there is no danger to the security of the State.
- (ii) Only a very small portion of the armed forces now located in Jammu and Kashmir, are needed for assisting the civil authorities in the maintenance of law and order. Moreover, having regard to the agreed objective of a free and impartial plebiscite, the forces on both sides of the cease-fire line should be reduced to the absolute minimum. The greater the reduction effected at this stage, the easier it would be for the Plebiscite Administrator to determine the final disposal of the remaining forces. If, on the other hand, there is complete demilitarization on one side, and substantial forces are left on the other, it would become almost impossible for the Plebiscite Administrator to carry out his duties.
- (iii) If it is intended that the forces on the Pakistan side of the cease-fire line should be of the status of civil armed forces, the forces on the Indian side of the cease-fire line should also be of the same status.
- (iv) Having regard to all the above considerations, a force of not more than four infantry battalions

(with the necessary administrative units) should be left on each side of the cease-fire line. The Pakistan Government is, however, prepared to agree that so long as the forces on each side of the cease-fire line are of the order indicated above, some slight difference in the strength or description of the two forces should not stand in the way of an agreement being reached.

With regard to the four questions put to the Pakistan delegation, our brief answers are as follows :

Question : "What is the minimum number of forces on both sides of the cease-fire line that the Government of Pakistan is ready to accept on the final day of the period of the demilitarization of the State of Jammu and Kashmir?"

Answer : Four infantry battalions (with the necessary administrative units) on each side of the cease-fire line. In case, however, India insists on retaining one division of four brigades, of four battalions each, consisting of 28,000 troops, presumably with the normal complement of armour and artillery of an Indian Army division, plus 6,000 militia, the Pakistan Government would consider it necessary to retain the Azad Kashmir forces consisting of 25,000 troops plus 3,500 Gilgit and Baltistan Scouts. These forces are much weaker than the forces which India wishes to retain, both in number and in armament.

Question : "Would the Government be prepared to accept that United Nations Military observers be stationed in the necessary numbers where it would be deemed appropriate by the United Nations and the Governments of India and Pakistan?"

Answer : Yes. It might be pointed out that under paragraph 2 of section B of part II of the UNCIP resolution of 13 August 1948, the United Nations Representative is competent to station United Nations observers wherever he deems necessary.

Question: "Would the Government of Pakistan be ready to accept forces to be provided by the United Nations in order to safeguard the security of and to maintain law and order in the whole State of Jammu and Kashmir as long as the United Nations, in consultation with the Governments of India and Pakistan, deems necessary?"

Answer: Yes. It is assumed that United Nations troops would be posted on both sides of the cease-fire line, and that the object of this proposal is to facilitate the withdrawal of all the forces of India and Pakistan, and the disbandment of all local forces, namely, the State Army and militia and the Azad Kashmir forces.

Question: "Would the Government of Pakistan agree that the Plebiscite Administrator be formally appointed to office not later than the final day of the demilitarization?"

Answer: Yes. The Pakistan Government wish to emphasize the importance of appointing the Plebiscite Administrator formally to office as early as possible. The UNCIP resolutions contemplate his appointment in the middle of the programme of demilitarization. It is hoped that he would be appointed to office as much in advance of the final day of demilitarization as possible.

(Signed) Zafrulla Khan
Minister for Foreign Affairs
and Commonwealth Relations of Pakistan

APPENDIX I

Memorandum submitted on 16 November 1951 to the United Nations Representative for India and Pakistan from the Pakistan delegation concerning the letter dated 11 September 1951 addressed to the United Nations Representative from the Prime Minister of India

Prime Minister of India's letter dated 11 September 1951 [S/2375, annex 3].

Points requiring clarification

Paragraph 5: (a) Is it correct that India is willing to carry out the withdrawal of the bulk of its forces within the period of ninety days mentioned in paragraph 6 of Mr. Graham's proposals [S/2375, annex 2]?

(b) Is it agreed that the withdrawal of the bulk of the Indian forces in the State should be synchronised with the withdrawal of the Pakistan Army from Jammu and Kashmir?

Paragraph 6: When would India be prepared to carry out the further withdrawals or reductions mentioned in subparagraph 7 (b) (ii) of the United Nations Representative's proposals, and how much time would be required for these operations?

Paragraph 7: India has proposed that the civil armed forces to be maintained on the Pakistan side of the cease-fire line "should consist of persons normally resident in Azad Kashmir territory, half of whom should be followers of Azad Kashmir and the other half persons who are not followers of Azad Kashmir". How is it proposed to recruit "persons who are not followers of Azad Kashmir", and to which Government or administration will they owe allegiance?

Paragraph 8: (a) What is the strength, armament and equipment of one line of communications area headquarters, and one infantry division of sixteen battalions, which India wishes to retain?

(b) Do the above mentioned forces include the State Army and militia? If not, what is the strength, armament and equipment of the State Army and State militia, which India desires to retain? When would India be prepared to agree to large-scale reduction and disarmament of the State Army and militia?

Paragraph 9: When will India cause the Plebiscite Administrator to be formally appointed to office?

Paragraph 10: Can this be taken to mean that India agrees to all the remaining proposals contained in the United Nations Representative's letter of 7 September 1951 (i.e., paragraphs 8, 9, 11 and 12)?

APPENDIX II

Memorandum from the United Nations Representative for India and Pakistan received by the delegation of Pakistan on 8 December 1951

The following are India's answers to the questions which have been raised with reference to certain paragraphs of the letter of the Prime Minister and Minister of External Affairs of India, dated September 11, 1951 [S/2375, annex 3]:

Question concerning paragraph 5: Is it correct that India is willing to carry out the withdrawal of the bulk of its forces within the period of ninety days mentioned in paragraph 6 of Mr. Graham's proposals?

Answer: It is not our intention to delay withdrawal of the bulk of our forces beyond the period of ninety days mentioned in paragraph 6 of Mr. Graham's proposals, provided Pakistan completes, within the same period, processes (i), (ii) and (iii) described in sub-paragraph 7 (a) of the proposals. Our reservation on this point was governed by two considerations: (1) doubts as to whether Pakistan will be able to carry out all the processes referred to within this period; (2) physical and administrative difficulties of our doing our share under sub-paragraph 7 (b) (i). Some of our troops are occupying remote posts difficult of approach and exit particularly in winter.

Question concerning paragraph 6: When would India be prepared to carry out the further withdrawals or reductions mentioned in sub-paragraph 7 (b) (ii) of the United Nations Representative's proposals, and how much time would be required for these operations?

Answer: As explained by Sir Girja Shankar Bajpai informally to Mr. Marin in the course of his conversations with

him on September 11, 1951, much of what we should have done under sub-paragraph 7 (b) (ii) of the proposals we have agreed to do under sub-paragraph 7 (b) (i) in order to convince Mr. Graham and the Security Council of the genuineness of our desire to go as far as possible in the direction of reducing our forces in the State to the minimum compatible with its security. It is impossible for us to suggest any time limit within which further withdrawals or reductions will be practicable. We can only repeat the assurance given in our letter of 11 September 1951, that "it is (our) policy to reduce (our) forces in the State to the minimum necessary to safeguard its security," and that "the greater the measure that the State enjoys from threats of incursion or aggression, the smaller will be this minimum."

Question concerning paragraph 7: India has proposed that the civil armed forces to be maintained on the Pakistan side of the cease-fire line "should consist of persons normally resident in Azad Kashmir territory, half of whom should be followers of Azad Kashmir and the other half persons who are not followers of Azad Kashmir." How is it proposed to recruit "persons who are not followers of Azad Kashmir"?

Answer: Recruitment of both categories of persons will be made under the supervision of United Nations authorities who, in determining that a person is not a follower of Azad Kashmir, will be assisted by our representatives. Every applicant for recruitment, whether now resident in the Azad Kashmir area or a refugee on our side of the cease-fire line, must of course belong to that area.

Question concerning paragraph 9: When will India cause the Plebiscite Administrator to be formally appointed to office?

Answer: The position has been explained fully in the paragraph itself. We still think that it would be premature to fix now the date of appointment of the Plebiscite Administrator. Once a programme of demilitarization has been agreed upon this matter can be settled.

Question concerning paragraph 10: Can this be taken to mean that India agrees to all the remaining proposals contained in the United Nations Representative's letter of 7 September 1951 (i.e., paragraphs 8, 9, 11 and 12)?

Answer: We understand that the reference in paragraph 12 of Mr. Graham's letter is not to differences arising in the process of drawing up a programme of demilitarization, but only to differences upon technical details concerning the actual implementation of the agreed programme. On this understanding the answer to the question is in the affirmative.

5. Text of the Reply from the representative of India received on 14 December 1951 by the United Nations Representative for India and Pakistan

We should like to state at the outset that in this note we are addressing ourselves strictly to the immediate task before us, viz, that of working out the details of a feasible plan of demilitarization. We shall, therefore, refrain at this stage from commenting upon the arguments, interpretations or implications contained in the statement and in the questions presented to us by the United Nations Representative on 7 December 1951.

It might be useful to state briefly the position adopted in the course of the discussions by the representative of India in regard to the question of the quantum of Indian troops remaining in the State of Jammu and Kashmir at the end of demilitarization. The point was raised whether in view of certain new assurances, it would be possible to reduce the figure originally proposed. In reply it was pointed out that the Government of India was responsible for the security of the State, and security could not be made dependent solely on verbal assurances offered but must be related to the actual conditions prevailing in the area. Therefore the quantum of forces remaining on the Indian side cannot be reduced merely because of the number of assurances offered. It should be remembered that even the UNCIP resolutions

contained certain assurances which have not been carried out on the part of Pakistan, witness the jihad and war propaganda in that country and the building up of the Azad Kashmir forces. There was also an assurance accompanying the UNCIP resolution of 13 August 1948, to the effect that during the period of cessation of hostilities Pakistan should not in any way consolidate its position to the disadvantage of the State. Yet there was in fact such consolidation as the UNCIP itself has recorded (vide, paragraph 225 of UNCIP's third interim report). The biggest assurance ever offered was that of a plebiscite on the part of India in October 1947, but that did not prevent the invasion of Kashmir by the Pakistan Army in May 1948. What is essential is that a sense of confidence and security should return to the population of the area, which has been shattered by two invasions and the rather unsettled conditions which have prevailed since that time.

As it was recognized in the course of discussion that the question of security was essentially a military matter, it was agreed that discussion should proceed between the Indian military advisers and General Devers, in order that a practicable plan of demilitarization be worked out. While demilitarization would form part of a single continuous process, it was admitted that in actual implementation, the process could not be completed in "one fell swoop", and that some phasing would be inevitable. On 29 November, General Devers made certain tentative suggestions in writing on how demilitarization might be achieved. These suggestions, of which copies were given in writing, are reproduced below:

"1. D-Day to be 30 days after the principal agreements have been signed.

2. D to D plus 30.

(a) The United Nations observer force be increased to approximately 800 officers and 600 men with necessary jeeps, helicopters and communication equipment to assure that there is no violation of the cease-fire agreements and to assist in demobilization of

forces and give stability and backing to local governments in maintaining order.

- (b) Pakistan to close the western border of the Azad Kashmir sector against unauthorized ingress from the west. This to be done by selected regular troops.
- (c) All regular Pakistan forces to be withdrawn to Pakistan except three battalions.
- (d) The Azad Kashmir armed forces to be reduced to four battalions.
- (e) The regular Indian forces to be reduced to one division and one line of communications area headquarters.
- (f) A police force of 4,000 civilians to be created in the Azad territory of Kashmir as follows:
 - (i) 1,200 carefully selected armed civilians who were formerly members of the disbanded Azad forces;
 - (ii) 1,200 carefully selected armed civilians who at no time have served as members of the disbanded Azad forces. None will be Pakistan nationals or former members of the Pakistan armed forces;
 - (iii) 800 carefully selected unarmed civilians who were formerly members of the disbanded Azad forces; and
 - (iv) 800 carefully selected unarmed civilians who at no time have served as members of the disbanded Azad forces. None will be Pakistan nationals or former members of the Pakistan forces."

The Indian military advisers, after consulting the Government of India, were able to agree to the basic principles underlying General Devers' programme, with certain reservations which were to be discussed further:

- (a) The figure of Indian troops remaining at the end of demilitarization given by the Indian military advisers, was based on the assumption that there would be no Pakistan Army or Azad Kashmir

battalions (including the Gilgit Scouts, etc.). General Devers' programme envisages the retention at the end of the period mentioned therein of three Pakistan Army battalions in addition to four Azad Kashmir battalions. Accordingly, for that stage of demilitarization, it was proposed by the Indian military advisers that in addition to the division and the line of communications area headquarters on the Indian side contemplated in the programme, there should be three additional battalions. If this addition is considered not to be fully warranted, the Indian military advisers would be prepared to reconsider this point, in order that their figure may correspond more closely to that contemplated in the programme.

- (b) It was pointed out that the period of thirty days suggested for the implementation of the programme was impracticable because of winter conditions and the inaccessible nature of the terrain. This difficulty was fully appreciated by General Devers, who recognized that a longer period would be necessary.
- (c) As regards the observer force proposed, it was suggested by the Indian military advisers that a force of observers twice that posted at present on the Indian side of the cease-fire line should suffice, while on the Pakistan side a force of 100 to 150 appeared to be adequate. It was pointed out that even with the presence of large forces on both sides of the cease-fire line, the observer force had not been able to prevent the frequent occurrence of incursions and infiltration into the Indian side of the cease-fire line. It can hardly be expected that the replacement of the Indian protective forces by a force of observers, however large, would improve the situation. On the contrary the presence of large numbers of foreign military personnel, besides creating serious administrative and organizational problems, would give rise to the gravest apprehen-

sions and misgivings in the minds of the local population.

- (d) Certain suggestions were offered for the recruitment of the civil force of 4,000 on the Azad Kashmir side.

With agreement reached on the programme proposed by General Devers, agreement on the final stage of demilitarization would clearly be greatly facilitated. To reach the final stage would involve, on the Pakistan side, the withdrawal of three Pakistan battalions and the disbandment and disarming of four Azad Kashmir battalions, which amounts to a total reduction of about 6,000 men. Against this, the Indian military advisers are prepared to make a substantial reduction in the Indian forces, of armour, artillery and infantry, amounting to over 7,000 troops.

The Indian military advisers consider that the force remaining at the conclusion of the above process is under present conditions the irreducible minimum compatible with the requirements of security. We say "under present conditions", because the Prime Minister, in paragraph 6 of his reply of 11 September 1951 [S/2375, annex 3] to Mr. Graham's letter of 7 September 1951 [S/2375, annex 2], has explained the position fully. For convenience of reference, we reproduce a portion of that paragraph:

"Any further reduction could only take place at some risk. The Government of India will be glad, however, to consider this problem with the United Nations Representative from time to time and to give effect to the measures that may be agreed upon between them to make further withdrawals or reductions. It wishes me to give you the assurance that it is its policy to reduce its forces in the State to the minimum necessary to safeguard its security; the greater the measure of security that the State enjoys from threats of incursion or aggression, the smaller will be this minimum."

It should be noticed that the Indian troops remaining in the State of Jammu and Kashmir at the end of the period of demilitarization under this plan are over 7,000 less than the minimum stated in paragraph 8 of the Prime Minister's letter of 11 September 1951. We have accepted almost all the suggestions made by General Devers to our military advisers on 29 November 1951. The suggestions have been helpful and we have accepted them, at some risk to the State and to the sense of security of its people, because we have been anxious to go as far as we could to arrive at an agreement.

The quantum of troops proposed in paragraph 5 above should be compared with the force of about a dozen battalions of infantry plus artillery, cavalry and other protective forces which were maintained by the State of Jammu and Kashmir before the partition of India, when the borders of the State were secured against any external threat by the presence of large garrisons in British India at all the strategic approaches to the State, and when conditions of comparative peace and security prevailed on the sub-continent and in the neighbouring countries. Not only has the State since suffered two invasions, but on some of its frontiers extremely unsettled conditions still prevail. These factors must inevitably influence the strength of the forces now required for its security. It should also be pointed out that any appreciation affecting the security of the territory and the strength of the forces required to ensure it, must remain the responsibility of the Government of India.

We notice with some surprise that in paragraph 4 of the questionnaire, mention has been made of the State militia. We should again like to point out that the State militia has not been mentioned in either of the UNCIP resolutions, nor has it been mentioned in Mr. Graham's letter of 7 September 1951. As was explained to the United Nations Representative in the course of discussions both in New Delhi and recently, the State Militia is a police administered and maintained by the Government of Jammu and Kashmir. Demilitarization concerns only the Indian and State armed forces; the State militia, which is a police force, clearly does not fall within either category.

As regards the suggestion for the bringing of United Nations forces into the State, it has been made clear more than once on behalf of the Government of India that the replacement of Indian security forces by foreign troops, howsoever constituted, can under no circumstances be accepted. We do not understand why this suggestion is being repeated.

As regards the question of fixing a date for the appointment of the Plebiscite Administrator, it has already been stated, in paragraph 9 of the letter of the Prime Minister of India dated 11 September 1951, that the Plebiscite Administrator should be appointed as soon as conditions in the State, on both sides of the cease-fire line, permit of a start being made with the arrangements for carrying out the plebiscite. To appoint the Plebiscite Administrator before he can function effectively would be premature.

APPENDIX

Government of India's demilitarization plan for discussion

The plan is in two phases:

Phase I

1. D-Day to be 30 days after the Principal Agreements have been signed.
2. D to D plus X days.
 - (a) Pakistan to close the western border of the Azad Kashmir sector against unauthorized ingress from the west.
 - (b) All regular Pakistan forces to be withdrawn to Pakistan except three battalions.
 - (c) The Azad Kashmir armed forces to be reduced to four battalions.
 - (d) The regular Indian forces to be reduced to one division and one line of communications area headquarters, as defined in paragraph 8 of the Prime Minister's letter to Mr. Graham, dated 11 September 1951.

- (e) A police force of 4,000 civilians to be created in the Azad territory of Kashmir half of which should be armed and half unarmed. One half should not be Pakistan nationals or former members of the Pakistan or Azad Kashmir armed forces.

Phase II

1. All remaining regular Pakistan forces to be withdrawn to Pakistan.
2. All remaining Azad Kashmir armed forces to be disarmed and disbanded.
3. Since (1) and (2) will amount to a total reduction of about 6,000 men, a substantial reduction will be made in the remaining regular Indian forces, of armour, artillery and infantry, amounting to over 7,000 troops.

The following brief explanation is offered of these two phases :

Phase I

This embodies almost all the written suggestions made to the Indian military advisers by General Devers on 29 November 1951, and therefore needs little explanation. The only point that may perhaps be mentioned here is that while General Devers suggested a period of thirty days for this phase, the Indian military advisers consider that, because of winter conditions and the inaccessible nature of the terrain, a longer period will be necessary. General Devers appears to appreciate this difficulty fully.

Phase II

This follows almost mathematically from phase I. Indeed, the reduction contemplated in this phase on the Indian side of the cease-fire line is more than on the other side.

It should be noticed that the Indian troops remaining in the State of Jammu and Kashmir at the end of the period of demilitarization under this plan are over 7,000 less than the

minimum stated in paragraph 8 of the Prime Minister's letter of 11 September 1951. We have accepted almost all the suggestions made by General Devers to our military advisers on 29 November 1951. The suggestions have been helpful and we have accepted them, at some risk to the State and to the sense of security of its people, because we have been anxious to go as far as we could to arrive at an agreement.

As regards the possibility of further withdrawals or reductions of the Indian troops, we reproduce an extract from paragraph 6 of the Prime Minister's reply of 11 September 1951 to Mr. Graham's letter of 7 September 1951.

"Any further reduction could only take place at some risk. The Government of India will be glad, however, to consider this problem with the United Nations Representative from time to time and to give effect to the measures that may be agreed upon between them to make further withdrawals or reductions. It wishes me to give you the assurance that it is its policy to reduce its forces in the State to the minimum necessary to safeguard its security; the greater the measure of security that the State enjoys from threats of incursion or aggression, the smaller will be this minimum."

Third Graham Report

Supporting Documents

Text of the Resume of the Statement made on 5 February 1952 to the United Nations Representative for India and Pakistan by the Minister for Foreign Affairs of Pakistan

TERMS OF REFERENCE OF THE UNITED NATIONS REPRESENTATIVE

1. The United Nations Representative has indicated that, in pursuance of his terms of reference under the Security Council's resolutions of 30 March and 10 November 1951, he will endeavour to resolve the outstanding differences concerning the twelve truce proposals contained in his second report to the Security Council. Pakistan is in full agreement with the United Nations Representative that no progress can be made unless in one way or another agreed solutions are found for the following :

- (i) A definite period of demilitarization;
- (ii) The scope of demilitarization and quantum of forces that will remain at the end of the period of demilitarization; and
- (iii) The day for the formal induction into office of the Plebiscite Administrator.

PERIOD FOR DEMILITARIZATION

2. A period of three months should be more than enough for carrying out the demilitarization programme envisaged by the United Nations Representative, particularly as, with the advance of the year, the difficulties in respect of the weather will have been removed. In any case, the demilitarization programme should be completed not later than 15 July 1952.

SCOPE OF DEMILITARIZATION

3. The demilitarization programme should embrace all armed forces in Jammu and Kashmir without exception, namely, the Pakistan Army and the Azad Kashmir forces on the one hand, and the Indian Army, the State Army and Militia, on the other. (The tribesmen and Pakistan volunteers have already withdrawn). There is no justification whatsoever for the contention that the State Militia is a police force and so not liable to disbandment. The Maharaja's Government has a separate police force, a part of which is armed with rifles. The Militia, on the other hand, is, and has always been, a military formation. It is organized and equipped exactly on the same lines as normal Indian infantry battalions. A considerable number of its commanders are officers taken on loan from the Indian Army. The Militia took part in military operations in 1948, and since then its main role has been protection of lines of communication, guarding of military dumps and installations, bridges, military headquarters etc.

4. Throughout the negotiations with the United Nations Commission, the Militia was considered a part of the State armed forces. In the demilitarization proposals submitted by the Pakistan Delegation to the Truce Sub-Committee on 9 March 1949, the strength of the Militia was estimated at 4,000. Since then the force has been increased to over 7,000. Pakistan asked for the early disbandment of this irregular force because its continuance was one of the greatest obstacles to the return of mutual confidence (third report of UNCIP, S/1430/Rev. 1, annex 10). No objection was raised by the

Indian representatives at the meeting. If India made any representation to the Commission afterwards, it was not communicated to Pakistan.

5. General McNaughton's demilitarization proposals of 22 December 1949 provided for the disbanding and disarming of the Militia along with the State Army and the Azad Kashmir forces. These proposals were endorsed by the Security Council in its resolution dated 14 March 1950 [S/1461]. Sir Owen Dixon also called for the disarming and disbanding of the Militia as a necessary part of the demilitarization programme. He rejected the Indian Prime Minister's claim that the Militia should be treated as a police force. He insisted that the Militia could be retained only as a part of the armed forces kept in the State by agreement. He pointed out that "it was inconsistent with the fairness or freedom of the plebiscite to have any such exhibition of force as would be involved in the presence of the Militia, more especially as the State Government was so vitally interested in the result of the plebiscite".

6. In its negotiations with Mr. Graham also, Pakistan has proceeded on the assumption that the Jammu and Kashmir Militia would be regarded as a part of the State armed forces, and would be liable to disbandment in the same way, and to the same extent, as other local forces, such as the State Army and the Azad Kashmir forces.

QUANTUM OF FORCES

7. We are in full agreement with the following observation of Sir Gladwyn Jebb (United Kingdom) made at the meeting of the Security Council held on 30 January 1952 [571st meeting, para. 37] :

"...in order that the plebiscite shall be demonstrably fair and free from any external pressure, the number of troops on both sides of the cease-fire line should be reduced to the absolute minimum compatible with the need to preserve law and order and internal security."

This is also in accord with the principle enunciated by the United Nations Representative in paragraph 7 of the twelve truce proposals.

8. India's alleged fears for the security of the State are unfounded, but, assuming for the sake of argument that there is some cause for India's concern, the same considerations also exist in respect of Azad Kashmir. The security of both areas has to be ensured, and neither side should be able to steal a march over the other; but the over-riding consideration is that neither India nor Pakistan should be placed in a position to intimidate the population and influence their vote in the plebiscite. As the representative of the Netherlands observed at the meeting of the Security Council held on 30 January 1952, the Security Council cannot "admit the right of either party for reasons of their own security to curtail the full freedom of choice by the people of Jammu and Kashmir." [571st meeting, para. 59].

9. We also agree in principle with the suggestion of the United Nations Representative that the number of armed forces to be retained at the end of the demilitarization programme should be based, in proportion, on the number of armed forces existing on each side of the cease-fire line on 1 January 1949. In order to give effect to this formula, it is now necessary that the ratio of forces existing at the time of the cease-fire should be settled, and that the number of forces which should remain at the end of the demilitarization should be clearly specified in the truce agreement.

10. According to the best estimates available to the Pakistan Government, the forces engaged on the Pakistan side of the cease-fire line on 1 January 1949 included approximately 68,000 combatants, while the forces engaged on the Indian side of the cease-fire line included approximately 84,000 combatants. On the basis of these figures, the ratio of forces would be roughly 4:5. The proportion of forces at the end of the demilitarization should be based on the same ratio, particularly in view of the fact that only infantry forces have to be retained on both sides of the cease-fire line.

DATE OF INDUCTION INTO OFFICE OF THE PLEBISCITE ADMINISTRATOR

11. Under the UNCIP resolution of 5 January 1949, the Plebiscite Administrator has to be inducted into office as soon as tribesmen, Pakistan volunteers, the Pakistan Army and the bulk of the Indian Army have withdrawn.

Mr. Graham's proposal that the Plebiscite Administrator should be appointed not later than the last day of the demilitarization programme represents a big concession to the Indian point of view. Nevertheless, Pakistan is prepared to accept it as a part of the twelve truce proposals suggested by the United Nations Representative.

12. It is, however, essential that the powers of the Plebiscite Administrator with regard to the "final disposal of forces" should be clearly defined. It will be recalled that this term occurs both in sub-paragraphs 4(a) and (b) of the UNCIP resolution of 5 January 1949, with reference to India and State armed forces, and the Azad Kashmir forces, respectively. Obviously the term means the same thing in both these clauses. Mr. Lozano told both the Government of India and the Government of Pakistan that under these clauses the Commission contemplated large-scale disbandment and disarming of all the forces concerned. This confirms Pakistan's view that the Plebiscite Administrator is competent to determine, in consultation with the United Nations Representative and the authorities concerned, not only the location and disposition of forces which remain in the State on the eve of the plebiscite, but also their strength.

INTERPRETATION OF NEW AGREEMENT

13. Paragraph 12 of Mr. Graham's proposals enables the United Nations Representative to determine finally points of difference relating to technical details concerning the actual implementation of the agreed demilitarization programme.

This is not enough. Sub-paragraph 2(a) of the Security Council's resolution dated 14 March 1950 authorized the United Nations Representative "to interpret the agreement reached by the parties for demilitarization". There should be a similar provision in the truce agreement. The experience of the last three years underlines the necessity for such a provision. Without it, there would be no means of resolving deadlocks that might arise.

Fourth Graham Report

Supporting Documents

1. *Text of the Statement of the United Nations Representative to the representatives of India and Pakistan in the joint meeting of 29 May 1952 at United Nations Headquarters*

The United Nations Representative is pleased to join again with the representatives of the Governments of India and Pakistan in a renewal of the negotiations on the question of the State of Jammu and Kashmir.

It would be presumptuous for the United Nations Representative to state that he believes these conversations will lead easily to a settlement of the dispute between the two Governments, but he has faith in the earnest desire of the two countries for a peaceful and friendly solution of the problem.

First the United Nations Representative would like to state to the delegations the basic principles that are guiding his activity:

(a) He understands his position to be that of a mediator in a dispute between two Governments ; as such he can only lend his good offices and mediation, with the hope that ways and means may be found to arrive at the desired end.

(b) He is mindful of the fact that the effectiveness of his mediatory role depends on the willingness of the two Governments to use his services. No approach in mediation is valid in itself, unless the parties accept it.

(c) Should one or both Governments not accept, or qualify an acceptance of an approach in such a way that the other Government is not able to accept it, it is the duty of a mediator to try to find another approach under his terms of reference.

(d) It has always laid, and will continue to lie, within the discretion of either party, or the United Nations Representative himself, to suggest at any time that these discussions be suspended.

Concerning the procedure which might be followed in the present negotiations the United Nations Representative suggests that :

(1) The negotiations should proceed under the terms to reference as laid down by the Security Council in its resolution of 30 March 1951 [S/2017/Rev. 1], in connexion with the resolution of 10 November 1951 [S/2392] as well as the debates in the Security Council on the matter.

(2) The negotiations should continue without prejudice to any action that the Security Council may take on the United Nations Representative's third report [S/2611]. After this meeting today he will communicate to the President of the Security Council that in agreement with the two Governments, if such is the case, he has resumed negotiations with them on the question and that he will report to the Security Council on their outcome.

(3) No time limit has been set by the United Nations Representative. He shares the anxiety of the two Governments and is desirous of avoiding any delay in the discussions.

(4) The United Nations Representative proposes that these conversations now take place in New York.

(5) The United Nations Representative invites the representative of the two Governments to state their present positions in the light of his third report, and to make any additional observations that they deem appropriate.

(6) Once the two parties have stated their present points of view, the United Nations Representative will proceed in accordance with the fourth recommendation set forth in his third report [S/2611, para. 51] that is,

"(4) That the United Nations Representative's negotiations with the Governments of India and Pakistan be continued with a view to :

(a) Resolving the remaining differences on the twelve proposals, with special reference to the quantum of forces to be left on each side of the cease-fire line at the end of the period of demilitarization, and

(b) The general implementation of the UNCIP resolutions of 13 August 1948 and 5 January 1949".

In this connexion the United Nations Representative would at all times welcome suggestions from either Government directed toward these ends and the definite settlement of the dispute.

(7) Should the discussions suggest the need for consideration of certain military questions, these will be referred to the Military Advisers.

(8) The United Nations Representative intends at the appropriate moment to report fully to the Security Council, pointing out the areas of agreement as well as any points of difference between the parties which may continue to exist, together with his views concerning the problems confided to him.

The United Nations Representative hopes that the two delegations will agree on the procedure as here outlined.

2. *Text of the Statement of the United Nations Representative to the representatives of India and Pakistan in the joint meeting of 16 July 1952 at United Nations Headquarters*

1. In his statement on 29 May 1952 at the joint meeting of the delegations of India and Pakistan [annex 1] the United Nations Representative outlined the basic principles that were to guide his activities, as well as the procedure that he would follow in the negotiations started at that moment.

2. In accordance with that statement the United Nations Representative obtained from the representatives of the two Governments their then present positions in the light of his third report to the Security Council, and the additional observation that they deemed it appropriate to make.

3. Meetings of the Military Advisers also took place in which they sought to define certain terms used in the twelve proposals in connexion with the resolutions of 13 August 1948 and 5 January 1949.

4. The United Nations Representative at this stage of his mediatory activity, and taking into account the course of the negotiations up to now, considers that the appropriate step is to lay on the table at a meeting at ministerial level a new draft of his twelve proposals in which as a basis for discussion, some of the paragraphs have been revised in the light of the recent considerations.

5. The United Nations Representative believes that progress can be made and several of the objections met if the process of demilitarization and the plebiscite are contemplated in different stages, namely

First stage—demilitarization. Part II of the 13 August 1948 UNCIP resolution and part of sub-paragraph 4 (a) and (b) of the 5 January 1949 UNCIP resolution to be implemented.

Second stage—preparation for the plebiscite. Once the

first stage has been implemented, the Plebiscite Administrator-designate is inducted into office and gives his views concerning the ways and means of carrying out the plebiscite. At the same time the United Nations Representative, in addition to carrying out the responsibilities conferred upon him by part II of the resolution of 13 August 1948, will consider the situation existing in the State, and when he is satisfied that peaceful conditions have been restored in the State, will fulfil the remaining duties conferred upon him, in association with the Plebiscite Administrator, in sub-paragraph 4 (a) and (b) in the 5 January 1949 resolution.

Third stage—plebiscite. In this stage the plebiscite will take place in accordance with the resolution of 5 January 1949.

6. The United Nations Representative sees the following values in his proposals as rewritten:

- (i) The signing of a truce agreement will help to dissipate misunderstandings and serve to promote a friendly atmosphere between the two countries.
- (ii) Parts I and II of the 13 August resolution will have been implemented once the withdrawals take place down to agreed figures.
- (iii) Large-scale disbanding and disarming of the Azad Kashmir forces will have taken place.
- (iv) The forces that will remain at the end of the period of demilitarization will not necessarily be the forces that will exist at the moment of the plebiscite. It is up to the United Nations Representative and the Plebiscite Administrator, in consultation with the appropriate authorities, to determine the final disposal of the remaining forces.
- (v) It is up to the United Nations Representative in accordance with sub-paragraph 4 (a) of the 5 January 1949 resolution, to be satisfied that peaceful conditions have been restored in the State.

7. Concerning the number of forces to be left on each side of the cease-fire line until peaceful conditions are restored and final disposal of them is determined, the United Nations Representative suggests brackets within which discussion can proceed.

8. The United Nations Representative considers that it would be more useful if the revised proposals are discussed at a meeting between representatives of the two Governments at a ministerial level, in which not only these proposals may be considered but, if necessary, also the general implementation of the two resolutions together with any suggestions the parties may wish to make.

9. The United Nations Representative sees advantages in this course of action. In his opinion it will lead to a thorough discussion of the problems involved, and will perhaps help to create a constructive atmosphere that will benefit the outcome of the discussions.

10. For the meeting referred to in paragraph 8 above, the United Nations Representative has in mind the following :

- (i) The meeting would be of representatives of the two Governments at ministerial level under the auspices of the United Nations Representative.
- (ii) The agenda of the meeting would be "Implementation of the resolutions of 13 August 1948 and 5 January 1949".
- (iii) The United Nations Representative will begin the meeting with a discussion of the revised draft proposals.
- (iv) The meeting would take place at the Palais des Nations in Geneva, or another place that may be convenient for the parties, on a date to be agreed on. The date of 29 July 1952 is suggested.
- (v) The duration of the meeting would be eight days, unless the course of the meetings indicates a prolongation for eight more days.

3. *Text of the revised draft proposals of 16 July 1952 for an agreement on demilitarization presented by the United Nations Representative for discussion at the meeting of representatives of the Governments of India and Pakistan*

The Governments of India and Pakistan

1. Reaffirm their determination not to resort to forces and to adhere to peaceful procedures and specifically pledge themselves that they will not commit aggression or make war, the one against the other, with regard to the question of Jammu and Kashmir;

2. Agree that each Government, on its part, will instruct its official spokesmen and will urge all its citizens, organizations, publications and radio stations not to make warlike statements or statements calculated to incite the people of either nation to make war against the other with regard to the question of Jammu and Kashmir;

3. Reaffirm their will to observe the cease-fire effective from 1 January 1949 and the Karachi Agreement of 27 July 1949;

4. Reaffirm their acceptance of the principle that the question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations;

5. Agree that subject to the provisions of paragraph 11 below the demilitarization of the State of Jammu and Kashmir contemplated in the UNCIP resolutions of 13 August 1948 and 5 January 1949 shall be effected in a single, continuous process;

6. Agree that this process of demilitarization shall be completed during a period of 90 days, starting from the date of the entrance into effect of this agreement, unless another

period is decided upon by the representatives of the Indian and Pakistan Governments referred to in paragraph 9 below;

7. Agree that the demilitarization shall be carried out in such a way that at the end of the period referred to in paragraph 6 above the situation will be:

(a) On the Pakistan side of the cease-fire line:

- (i) The tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn;
- (ii) The Pakistan troops will have been withdrawn from the State;
- (iii) Large-scale disbandment and disarmament of the Azad Kashmir forces will have taken place ; so that at the end of the period of demilitarization there shall be an armed force of . . . [The United Nations Representative suggests, as a basis for discussion, figures ranging from 3,000 to 6,000].
- (iv) The remaining Azad Kashmir forces will have been separated from the administrative and operational control of the Pakistan High Command and will be officered by neutral and local officers under the surveillance of the United Nations.

(b) On the Indian side of the cease-fire line:

- (i) The bulk of the Indian forces in the State will have been withdrawn;
- (ii) Further withdrawals or reductions, as the case may be, of the Indian and State armed forces remaining in the State after the completion of the operation referred to in sub-paragraph (b) (i) above will have been carried out ; so that at the end of the period of demilitarization there shall be an Indian Army force of . . . [The United Nations Representative

suggests, as a basis for discussion, figures ranging from 12,000 to 18,000].

8. Agree that the demilitarization shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period referred to in paragraph 6 above;

9. Agree that representatives of the Indian and Pakistan Governments, assisted by their military advisers, will meet, under the auspices of the United Nations, to draw up a programme of demilitarization in accordance with the provisions of paragraphs 5, 6, 7 and 8 above. The first meeting shall take place within eight days after the entrance into effect of this agreement;

10. Agree that the Government of India shall cause the Plebiscite Administrator to be formally appointed to office not later than the final day of the demilitarization period referred to in paragraph 6 above;

11. Agree that

- (a) The determination of the final disposal of the remainder of the Indian and State armed forces left at the end of the period of demilitarization after the provisions of paragraph 7 have been fulfilled, and when the United Nations Representative is satisfied that peaceful conditions have been restored in the State, will be made by the United Nations Representative and the Plebiscite Administrator in consultation with the Government of India, with due regard to the security of the State and the freedom of the plebiscite.
- (b) The determination of the final disposal of the remainder of the Azad Kashmir forces left after provisions of paragraph 7 have been fulfilled will be made by the United Nations Representative and the Plebiscite Administrator in consultation with the local authorities.

12. Agree that any differences regarding the programme of demilitarization contemplated in paragraph 9 above will be referred to the Military Adviser of the United Nations Representative, and, if disagreement continues, to the United Nations Representative, whose decision shall be final.

Additional clause

This Truce Agreement shall enter into effect upon its signature by representatives of the two Governments.

4. Text of the Statement of the United Nations Representative in the first meeting of the conference between the representatives of India and Pakistan in the Palais des Nations, Geneva, on 25 August 1952

As United Nations Representative I welcome the presence around this table of the representatives of the Governments of India and Pakistan. It is my faith that the work of this Conference will be carried out with goodwill and in a constructive spirit in order to fulfil the hopes placed in this meeting.

I would like to confirm my statements of 29 May [annex 1] and 16 July [annex 2] made in New York in the joint meetings with the delegations of India and Pakistan.

In the statement on 16 July 1952 the United Nations Representative said that the agenda of this Conference would be, "implementation of the UNCIP resolutions of 13 August 1948 and 5 January 1949". I also indicated that the meetings would begin with a discussion of the revised draft proposals [annex 3] which were submitted to the two Governments. Both Governments indicated their acceptance of these bases for the Conference.

It might be of assistance, to repeat here that part of the statement of 16 July 1952 in which the Representative said:

"The United Nations Representative believes that progress can be made and several of the objections met

if the process of demilitarization and the plebiscite are contemplated in different stages, namely,

“First stage—demilitarization. Part II of the 13 August 1948 UNCIP resolution and part of sub-paragraphs 4(a) and (b) of the 5 January 1949 UNCIP resolution to be implemented.

Second stage—preparation for the plebiscite. Once the first stage has been implemented, the Plebiscite Administrator-designate is inducted into office and gives his views concerning the ways and means of carrying out the plebiscite. At the same time the United Nations Representative, in addition to carrying out the responsibilities conferred upon him by part II of the resolution of 13 August 1948, will consider the situation existing in the State, and when he is satisfied that peaceful conditions have been restored in the State, will fulfil the remaining duties conferred upon him, in association with the Plebiscite Administrator, in sub-paragraphs 4(a) and (b) in the 5 January 1949 resolution.

Third stage—plebiscite. In this stage the plebiscite will take place in accordance with the resolution of 5 January 1949.

The United Nations Representative sees the following values in his proposals as rewritten:

- (i) The signing of a truce agreement will help to dissipate misunderstanding and serve to promote a friendly atmosphere between the two countries.
- (ii) Parts I and II of the 13th August resolution will have been implemented once the withdrawals take place down to agreed figures.
- (iii) Large-scale disbanding and disarming of the Azad Kashmir forces will have taken place.
- (iv) The forces that will remain at the end of the period of demilitarization will not necessarily be the forces that will exist at the moment of the plebiscite. It

is up to the United Nations Representative and the Plebiscite Administrator, in consultation with the appropriate authorities, to determine the final disposal of the remaining forces.

- (v) It is up to the United Nations Representative, in accordance with sub-paragraph 4 (a) of the 5 January 1949 resolution to be satisfied that peaceful conditions have been restored in the State.

Concerning the number of forces to be left on each side of the cease-fire line until peaceful conditions are restored and final disposal of them is determined, the United Nations Representative suggests brackets within which discussion can proceed."

I understand that the [representatives agree that these meetings will be private. I shall therefore make no statement to the Press regarding what takes place during these meetings and I presume that this is also the intention of the representatives of the two Governments. If it should be found desirable to issue any information to the Press, I propose that this be done through the normal United Nations channels and in agreement with the two Governments' representatives. If there is no objection, information regarding the time and place of meeting might nevertheless be made available each day to the Press.

I would like to ask whether either of the representatives would make any general comments on the proposals.

Following that, if the representatives agree, I suggest the proposals be examined one by one.

I hope that this procedure will be acceptable to the representatives of the Governments of India and Pakistan.

- 5. *Memorandum transmitted to the United Nations Representative on 11 September 1952 by the representative of India, giving a resume of India's views concerning issues discussed at the Geneva Conference from 26 August to 10 September 1952*

1. Character and quantum of forces to remain on each side of the cease-fire line

(I) The position of the Government of India as regards its own forces is as follows:

- (a) According to paragraph 4 of part II of the UNCIP resolution of 13 August 1948, the Government of India must have the minimum forces required to assist the local authorities, i.e., the Jammu and Kashmir Government, on the Indian side of the cease-fire line in the maintenance of law and order; this term, according to the Commission, includes adequate defence.
- (b) Under sub-paragraph 4(a) of the UNCIP resolution of 5 January 1949, the disposal of India and State armed forces on our side has to be with due regard to security, which in its connotation has a wider significance than law and order.
- (c) The Government of India is constitutionally responsible for the defence of the Jammu and Kashmir State, which includes aid to the civil power.
- (d) Having regard to these commitments of internal and external security, the responsibilities under the cease-fire agreement and the fact that Pakistan would be free to locate its forces as it likes within its own borders, which for some length are common with the borders of the Jammu and Kashmir State and for a still greater length within practically striking distance of the cease-fire line and important areas of the Jammu and Kashmir State, the Government of India considers that a minimum force of 28,000 is required.
- (e) However, on complete disbandment and disarmament of the Azad Kashmir forces and as a further gesture towards a settlement, it is prepared to effect a further reduction of 7,000, but it is impossible to reduce this absolute minimum figure of 21,000.

of the Union of India and the Jammu and Kashmir State. In the very nature of things, therefore, these local authorities can be entered only with a civil armed force.

- (c) The Government of India considers that, having regard to all the circumstances of the case, a civil armed force of 4,000 would be on the liberal side considering the pre-aggression strength of similar forces policing this area. However, they would be prepared to consider an appropriate increase to provide for the needs of the northern areas or should the United Nations Representative, under whose surveillance these forces would be operating, make out a case that this strength is inadequate.
- (d) Having regard to the functions these forces are to discharge and the conditions of a fair and impartial plebiscite, these forces should consist of an equal proportion of Azad Kashmir and other elements. The Government of India would be prepared to agree to a suitable readjustment of the armed and unarmed portion of this force.
- (e) The civil armed force should be under neutral and local officers.

2. Induction into office of the Plebiscite Administrator

The Government of India's view is that the Plebiscite Administrator can properly function only after (i) the process of demilitarization is completed and the United Nations Representative is satisfied that peaceful conditions have been restored and (ii) the local authorities are recognized and are functioning on the Pakistan side of the cease-fire line under the surveillance of the United Nations Representative. In the interests of agreement, however, the Government of India would be prepared to agree to his induction on the last day of the period of demilitarization provided that it is completed according to plan and is exhaustive so that the Plebiscite Administrator would, as regards the forces remaining in the

State after demilitarization is fully implemented, be concerned only with their disposition.

3. The functions and responsibilities of the United Nations Representative and the Plebiscite Administrator with regard to the final disposal of forces so set forth in sub-paragraphs 4 (a) and (b) of the UNCIP resolution of 5 January 1949

The Government of India contends that both under the two United Nations resolutions read together and according to the understandings with the Commission, the term "final disposal" in sub-paragraph 4 (a) means only disposition. This is evident from the fact that the UNCIP resolution of 13 August 1948 speaks of minimum forces required to assist the local authorities in the maintenance of law and order, which the Commission itself has interpreted to include adequate defence. The Government of India considers that it can never be contemplated that as a result of any subsequent reduction forces should be reduced to below the minimum. The Commission has never used the term "reduction" or "withdrawal" of Indian forces with reference to sub-paragraph 4 (a); it has, on the other hand, always insisted that sub-paragraph 4 (b) contemplated disbandment and disarming of Azad Kashmir forces and other armed forces on the Pakistan side of the cease-fire line. This distinction was made by the Commission with reference to a difficulty of its own creation by giving an assurance to the Pakistan Government, without the knowledge of the Government of India, that it did not contemplate the disbandment and disarming of Azad Kashmir forces at the stage of part II of the 13 August 1948 resolution. Moreover, once it is accepted in principle that demilitarization contemplated under the resolutions of 13 August 1948 and 5 January 1949 should be effected in a single continuous process, no interference with the strength of forces in the State is possible at the plebiscite stage. Furthermore if the element of reduction or withdrawal of forces at the plebiscite stage, according to the Pakistan Government's interpretation

of sub-paragraphs 4 (a) and 4 (b) of the resolution of 5 January 1949, is brought on to the demilitarization stage, the process of demilitarization must be deemed to have exhausted itself and the United Nations Representative and the Plebiscite Administrator can at that stage deal only with the question of disposition.

4. Principles for the determination of forces to be left on either side of the cease-fire line

The Government of India considers that the principles enumerated in sub-paragraph 7 (a) (iii) and 7 (b) (ii) of Mr. Graham's proposals of 4 September 1952, were conceived in the right spirit having regard to the two UNCIP resolutions. As a basis for the evolution of a suitable definition of functions of forces on both sides of the cease-fire line they contained the germs of a settlement but despite several efforts to evolve a suitable draft in terms of the language used in the Commission's resolutions no understanding could be reached with the Pakistan Government. Since the evolution of such principles is basic to the question of the character and quantum of forces, the Government of India would point out that while the Commission's resolutions acknowledge its responsibility in this respect in specific broad terms, the use of the term "local authorities", the provision for the surveillance of the United Nations Commission, and the fact that these local authorities have to carry on the mere administration of this area leave no doubt whatsoever that their law and order responsibilities are of a purely local character. The Government of India cannot accept any equation of its responsibilities with the local authorities on the Pakistan side of the cease-fire line or agree to anything more than a local character to the maintenance of public order in that area by the local authorities. It would observe that constitutionally the defence of the entire State of Jammu and Kashmir is the concern of the Government of India and it alone is entitled to maintain a military armed force for the purpose. This is the only position consistent with the assurance given and the practice observed hitherto by the United Nations authorities of giving

recognition to the sovereignty of the Indian Union and the State which derived originally from the Instrument of Accession and has since been embodied in the Constitution of India.

6. *Memorandum transmitted to the United Nations Representative on 11 September 1952 by the representative of Pakistan, giving a resume of Pakistan's views concerning issues discussed at the Geneva Conference from 26 August to 10 September 1952*

Introductory

The Government of Pakistan accepted the proposal of the United Nations Representative to participate in a meeting at ministerial level at Geneva "for the purpose of arriving at agreement with regard to implementation of the UNCIP resolutions of 13 August 1948 and 5 January 1949 within the limits of those resolutions." Since the two agreed UNCIP resolutions together constitute the international agreement with regard to Kashmir, they are the touch-stone by which all proposals for the implementation of these resolutions are judged. Pakistan has been ready at all times to accept all proposals which are in accord with the letter or the spirit of these resolutions.

Problem of demilitarization

The Conference has been mainly concerned with the problem of demilitarization. The UNCIP resolutions envisaged demilitarization in two stages. During the first stage, the tribesmen, Pakistan volunteers, and the Pakistan troops were to be withdrawn, on the one hand, and the bulk of the Indian forces, on the other. The Plebiscite Administrator was then to be inducted into office, and was made responsible for determining the final disposal of all the remaining forces in consultation with the United Nations Representative and the authorities concerned.

The United Nations Representative's proposals of 16 July 1952 [annex 3], also envisaged demilitarization in two

stages. The first stage provided for implementation of part II of the 13 August 1948 resolution and part of sub-paragraph 4 (a) and (b) of the 5 January 1949 resolution. In the second stage, the United Nations Representative and the Plebiscite Administrator were to determine the final disposal of the remaining forces.

Pakistan has been equally ready to carry out the demilitarization programme as envisaged in the UNCIP resolutions and as contemplated in the United Nations Representative's proposals of 16 July 1952. It would appear that the Government of India was prepared to accept neither.

Security of the State

3. The main reason given for India's refusal to proceed with demilitarization on the lines laid down in the UNCIP resolutions or as suggested by the United Nations Representative, has been India's alleged fears for the security of the State. It might be pointed out that the agreed UNCIP resolutions make adequate provisions for the security of the State at all stages. India's alleged fears for the security of the State are unfounded, but assuming for the sake of argument that there is some cause for India's concern, the same considerations also exist in respect of Azad Kashmir. The security of both areas has to be ensured, and neither side should be able to steal a march against the other, but the over-riding consideration is that neither India nor Pakistan should be placed in a position to intimidate the population and influence their vote in the plebiscite.

India cannot be the sole judge of the steps needed to ensure the security of the State. According to paragraph 2 of section B of part II of the UNCIP resolution 13 August 1948, India may maintain during the truce stage "within the lines existing at the moment of cease-fire the minimum strength of its forces which in agreement with the Commission (now United Nations Representative) are considered necessary to assist the local authorities in the observance of law and order". Thereafter, during the plebiscite stage, the United Nations

Representative and the Plebiscite Administrator have the right to determine, in consultation with the authorities concerned, the final disposal of all the forces remaining in the State of Jammu and Kashmir, "such disposal to be with due regard to the security of the State and the freedom of the plebiscite" (vide paragraph 4 of the UNCIP resolution dated 5 January 1949).

The proceedings of the Geneva Conference show that the basic differences with regard to the problem of demilitarization have been with respect to:

(i) The number and character of forces which should remain on each side of the cease-fire line at the end of the demilitarization period; and

(ii) The functions and responsibilities of the United Nations Representative and the Plebiscite Administrator with regard to the final disposal of forces under sub-paragraph 4 (a) and (b) of the 5 January 1949 resolution.

*Number and character of forces to be retained
at the end of demilitarization*

Pakistan considers that after the processes outlined in paragraph 7 of the United Nations Representative's truce proposals of 16 July 1952 have been carried out, there should remain on each side of the cease-fire line only the minimum forces necessary for the maintenance of law and order and the preservation of the cease-fire line.

The UNCIP resolutions contemplated the retention of some armed forces on both sides of the cease-fire line for the purposes specified above. The character of the forces must, obviously, be the same on both sides of the cease-fire line.

Final disposal of forces

The term "final disposal of forces" was used by the UNCIP both in sub-paragraph 4 (a) of its resolution of 5 January 1949 with respect to Indian and State armed forces,

and in sub-paragraph 4 (b) of the same resolution in respect of the Azad Kashmir forces. It could only mean the same thing in both cases. The Vice-Chairman of the Commission informed the Foreign Minister of Pakistan on 25 December 1948 that the object of paragraph 4 of the Commission's draft proposals on 11 December 1948 (which subsequently became the Commission's resolution of 5 January 1949) was "to ensure a large scale reduction and disarmament, the exact scope of which will be determined by the Commission and the Plebiscite Administrator, in consultation with the authorities concerned" (see appendix to annex 5 to UNCIP's second report, document S/1196). The term "final disposal" therefore covers reduction by withdrawal or disbandment as well as location or stationing of the armed forces concerned. If it is contended that "final disposal" means only the location or stationing of forces, then there is, by the same token, no provision in the UNCIP resolutions for the reduction or disbandment of the Azad Kashmir forces either.

Induction into office of the Plebiscite Administrator

Second in importance only to the question of demilitarization is the date by which the Plebiscite Administrator will be inducted into office. Under the UNCIP resolution of 5 January 1949, the Plebiscite Administrator has to be inducted into office as soon as the tribesmen, Pakistan volunteers and the Pakistan Army and the bulk of the Indian Army have withdrawn. The United Nations Representative's proposal that the Plebiscite Administrator should be appointed not later than the last day of the demilitarization programme represents a big concession to the Indian point of view. Nevertheless, Pakistan is prepared to accept it as a part of the twelve truce proposals suggested by the United Nations Representative,

United Nations surveillance over "local authorities"

Paragraph 3 of section A of part II of the UNCIP resolution of 13 August 1948 provided that "pending a final solution, the territory evacuated by Pakistan troops will be

administered by the local authorities under the surveillance of the Commission".

In its letter dated 3 September 1948, the Commission defined the "evacuated territory" to mean "those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command". (UNCIP's first report, document S/1100, paragraph 90.) As a result of the demarcation of the cease-fire line all territories situated on the Pakistan side of the cease-fire line should be regarded as "evacuated territory".

The United Nations Commission told the Foreign Minister of Pakistan that by the term "local authorities" it meant the Azad Kashmir Government, though the Commission could not accord *de jure* recognition to a revolutionary authority such as the Azad Kashmir Government. The Commission also gave the assurance that no official of the Government of India, or of the Maharaja's Government, would be permitted to enter the evacuated territory. (Vide UNCIP's summary record of the meeting held on 31 August 1948.)

As regards the term "surveillance," the UNCIP said that it meant neither supervision nor control. The Chairman of the Commission explained that "all the Commission had wanted was to find a definition for something which would release the Commission from taking too heavy responsibilities on its shoulders. The word "surveillance" was chosen as the mildest expression for something which would not imply spontaneous control or interference with the local authorities unless the truce is violated." (Vide UNCIP's summary record of the meeting held on 2 September 1948.) The Commission also agreed that its surveillance would not extend to Gilgit.

The Pakistan delegation took note of the United Nations Representative's statement on 2 September 1952 that he understood the term "local authorities" to mean "the persons there who exercise effective authority" and that as regards "surveillance" over the local authorities the United Nations

Representative would seek to exercise it through the appointment of civil and military observers.

United Nations Representative's draft proposals of 16 July, 2 September and 4 September 1952

Pakistan's views on the main issues discussed at the Geneva Conference have been summarized in the preceding paragraphs. The following additional comments are offered concerning the United Nations Representative's draft proposals of 16 July, 2 September and 4 September 1952.

(i) Proposals of 16 July 1952 [annex 3]

There is no warrant in the UNCIP resolutions for the appointment of "neutral" officers in command of the reduced Azad Kashmir Forces. This proposal is also inherently unworkable. There is no shortage of suitable local officers to command the reduced Azad Kashmir Forces.

Paragraph 12 of the truce proposals enables the United Nations Representative to determine final points of difference relating to technical details concerning the actual implementation of the agreed demilitarization programme. This is not enough. Sub-paragraph 2(a) of the Security Council's resolution of 14 March 1950 [S/1461] authorized the United Nations Representative to interpret the agreements reached by the parties for demilitarization. There should be a similar provision in the truce agreement. The experience of the last four years underlines the necessity for such a provision. Without it, there would be no means of resolving deadlocks that might arise.

Subject to the preceding observations, Pakistan was prepared to accept the United Nations Representative's proposals of 16 July 1952 as explained and clarified in Mr. Graham's statement of that date [annex 2].

(ii) Proposals of 2 September 1952 [annex 7]

Pakistan considers that the United Nations Represen-

4 (a) and (b) of the 5 January 1949 resolution, and would have been satisfied with the disposition of all remaining forces by the United Nations Representative and the Plebiscite Administrator, in consultation with the respective authorities, and with due regard to the security of the State and the freedom of the plebiscite.

Subject to the above observations, and some drafting changes, the Pakistan delegation was prepared to accept the United Nations Representative's draft proposals of 4 September 1952.

7. Proposal of 2 September 1952 of the United Nations Representative based upon his twelve proposals

The Governments of India and of Pakistan

[The texts of paragraphs 1 to 6, inclusive, are the same as those set forth in annex 3].

Agree that the demilitarization shall be carried out in such a way that at the end of the period referred to in paragraph 6 above the situation will be:

(a) On the Pakistan side of the cease-fire line:

- (i) The tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn;
- (ii) The Pakistan troops will have been withdrawn from the State; and
- (iii) Large-scale disbanding and disarmament of the Azad Kashmir forces will have taken place; so that at the end of the period of demilitarization there shall be an armed force of 6,000.

(b) On the Indian side of the cease-fire:

- (i) The bulk of the Indian forces in the State will have been withdrawn; and

- (ii) Further withdrawals or reductions, as the case may be, of the Indian and State armed forces remaining in the State after the completion of the operation referred to in sub-paragraph (b) (i) above will have been carried out; so that at the end of the period of demilitarization there shall be an Indian Army force of 18,000 including State armed forces.

Agree that the demilitarization shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period referred to in paragraph 6 above;

Agree that, pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the United Nations. The local authorities shall undertake the fulfilment of such duties as are necessary for the observance within that territory of the provisions of the Karachi Agreement of 27 July 1949;

Agree that the Government of India shall cause the Plebiscite Administrator to be formally appointed to office not later than the final day of the demilitarization period referred to in paragraph 6 above;

Agree that the completion of the programme of demilitarization referred to in the provisional clause below will be without prejudice to the functions and responsibilities of the United Nations Representative and the Plebiscite Administrator with regard to the final disposal of forces as set forth in sub-paragraphs 4 (a) and (b) of the 5 January 1949 resolution;

Agree that any differences regarding the programme of demilitarization contemplated in the provisional clause will be referred to the Military Adviser of the United Nations Representative, and, if disagreement continues, to the United Nations Representative, whose decision shall be final.

Provisional clause

This agreement shall enter into effect when the Governments of India and Pakistan have approved a programme of demilitarization in conformity with paragraphs 5, 6, 7 and 8 above, the draft of such programme to be drawn up in meetings between the representatives of the Governments of India and of Pakistan assisted by their Military Advisers under the auspices of the United Nations. The first meeting shall take place within two weeks after the signature of the above agreement.

8. Proposal of 4 September 1952 of the United Nations Representative based upon his twelve points

The Governments of India and Pakistan

[The texts of paragraphs 1 to 6 inclusive are the same as those set forth in annex 3].

Agree that the demilitarization shall be carried out in such a way that at the end of the period referred to in paragraph 6 above the situation will be:

(a) *On the Pakistan side of the cease-fire line:*

- (i) The tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn;
- (ii) The Pakistan troops will have been withdrawn from the State; and
- (iii) Large-scale disbanding and disarmament of the Azad Kashmir forces will have taken place; so that at the end of the period of demilitarization there shall be the minimum number of forces that are required for the maintenance of law and order and of the cease-fire agreement, with due regard to the freedom of the plebiscite.

(b) On the Indian side of the cease-fire line:

- (i) The bulk of the Indian forces in the State will have been withdrawn; and
- (ii) Further withdrawals or reductions, as the case may be, of the Indian and State armed forces remaining in the State after the completion of the operation referred to in sub-paragraph (b) (i) above will have been carried out; so that at the end of the period of demilitarization there shall be the minimum number of Indian forces and State armed forces that are required for the maintenance of law and order and of the cease-fire agreement, with due regard to the security of the State and the freedom of the plebiscite.

Agree that the demilitarization shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period referred to in paragraph 6 above;

Agree that, pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the United Nations;

Agree that the Government of India shall cause the Plebiscite Administrator to be formally appointed to office not later than the final day of the demilitarization period referred to in paragraph 6 above;

Agree that arrangements for the plebiscite shall be completed after the United Nations Representative declares that he is satisfied that peaceful conditions have been restored in the State;

Agree that any differences regarding the programme of demilitarization contemplated in the provisional clause will be referred to the Military Adviser of the United Nations Representative, and, if disagreement continues, to the United Nations Representative, whose decisions shall be final.

resolution does not contemplate the disarmament or disbanding of Azad Kashmir forces" [Letter dated 19 September 1948 from the Commission to the Pakistan Minister for Foreign Affairs, S/1100, paragraph 108, 2 (c)].

Previous to the agreement of the two Governments on the basic principles which became the 5 January 1949 resolution, conversations were held in New Delhi between members of the Commission and the Prime Minister of India. In a conference on 20 December 1948 :

"... the Prime Minister [of India] drew attention to the fact that the Azad Kashmir forces which had been armed and equipped by Pakistan and were under the operational command of the Pakistan Army ran into tens of thousands. Their presence in the territory referred to in A. 3 of part II of the resolution of 13 August [1948] even after demobilization, would be a constant threat to the territory under the control of Indian and State forces, a deterrent to the return of many refugees, and an obstacle to the free expression of opinion regarding the future status of the State by those who might be opposed to the accession of the State to Pakistan. Mr. Lozano pointed out that it was the Commission's intention that there should be a large-scale disarming of these forces, though it would not be possible to require withdrawal from these territories of genuine inhabitants of these areas" [S/1196, annex 4, aide-memoire 1, para. 4, B. 4 (b)].

The same subject was discussed further in a meeting between the Prime Minister of India and members of the Commission on 22 December 1948:

"Mr. Lozano said that the aide-memoire of the conference which took place on Monday, 20 December, was a correct account of the proceedings. He suggested, however, that the phrase 'large-scale disarming' of the

Azad Kashmir forces used in the portion of the aide-memoire dealing with B. 4 (b) of the Commission's plebiscite proposals did not, perhaps, represent the Commission's intention. What the Commission had in mind was the disbanding of these forces; disarming, it was assumed, would follow.

"The Prime Minister pointed out that disbandment was not the same thing as disarming. Pakistan had raised something like thirty-five battalions of 28,000 to 30,000 men who now formed part of the Azad Kashmir forces. The presence of such a large number of armed people even if the regular formations were disbanded, would not be conducive to ensuring either the security of that part of Jammu and Kashmir which is under the control of Indian and State forces, or the security of those inhabitants of the territories referred to in A. 3 of part II of the resolution of 13 August who did not fully subscribe to or share the political views of pro-Pakistan elements.

"Moreover, the question of the re-entry into these territories of State citizens who had left it on account of the present conflict had to be kept in mind. With such a large number of members of the Azad Kashmir forces under arms, former inhabitants of these territories who held different political views would not dare to re-enter and would therefore be debarred from participation in a 'free and impartial' plebiscite. In view of this explanation, Mr. Lozano agreed that the phrase 'large-scale disarming' should be regarded as correctly interpreting the Commission's intention" [S/1196, annex 4, aide-memoire 2, para. 2].

In the agreed memorandum attached to Pakistan's acceptance on 25 December 1948 of the principles which were then embodied in the 5 January 1949 resolution it is stated in relation to clause B. 4, *inter alia*:

"(ii) The intention of the Commission is to ensure a large-scale reduction and disarmament, the exact scope of which will be determined by the Commission and the Plebiscite Administrator in consultation with the authorities concerned" [S/1196, annex 5, communication (ii)].

Principles embodied in the 5 January 1949 resolution were accepted by India on 23 December 1948 and by Pakistan on 25 December 1948.

B. DEFENCE

Among the concerns of the Government of India previous to its acceptance of the 13 August resolution was the one that:

"(v) India should retain such strength of forces in Kashmir as to guarantee defence and the maintenance of law and order and the protection of the territory against external attack." [S/1100, para. 77 (v)].

At the meeting of members of the Commission with the Prime Minister of India in New Delhi on 17 August 1948, the Prime Minister, with reference to part II, section B, paragraph 2, of the 13 August 1948 resolution :

"... remarked that it would be necessary for India to retain troops in Kashmir for defensive purposes as well as for the maintenance of law and order. Recalling that the same issue had been raised in the Security Council, he said that the Government of India must have sufficient troops to protect the territory against external attack. Mr. Korbel commented that in his understanding the phrase 'law and order' could be interpreted to include maintenance of adequate defence inasmuch as that was essential to law and order." [S/1100, annex 12, page 106].

In the letter of 20 August 1948 from the Prime Minister of India to the Chairman of the Commission, the Prime

Minister asked for certain assurances regarding responsibility for defence of the State. He stated :

"That from our point of view the effective insurance of the security of the State against external aggression, from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less important that the observance of internal law and order, and that, therefore, the withdrawal of Indian troops and the strength of Indian forces maintained in Kashmir should be conditioned by this overriding factor.

"Thus at any time the strength of the Indian forces maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder" [S/1100, para. 78, 3 (2)].

The Prime Minister continued:

"If I understood you correctly . . . as regards paragraph 3 (2), the paramount need for security is recognized by the Commission, and the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State, are matters for settlement between the Commission and the Government of India.

"Finally, you agreed that part III, as formulated, does not in any way recognize the right of Pakistan to have any part in a plebiscite" [S/1100, para. 78, 4].

The Chairman, replying for the Commission on 25 August 1948, stated, *inter alia*:

"The Commission requests me to convey to Your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation" [S/100, para. 79].

In a letter of 3 September 1948 from the Commission to the Minister of Foreign Affairs of Pakistan, in response to a request for certain additional clarifications of the 13 August resolution, the Chairman wrote, *inter alia*:

"As regards paragraphs B. 1 and B. 2, of part II, the Commission, while recognizing the paramount need for security of the State of Jammu and Kashmir, confirms that the minimum strength required for the purpose of assisting the local authorities in the observance of law and order would be determined by the Commission and the Government of India. The Commission considers that it is free to hear the views of the Government of Pakistan on the subject" [S/1100, para. 90 (3)].

C. LOCAL AUTHORITIES AND SOVEREIGNTY

In a meeting held in New Delhi on 17 August 1948 between representatives of the Commission and the Prime Minister of India, the Prime Minister inquired if the wording of A. 3 of part II of the 13 August 1948 resolution:

"... envisaged any change in the status of the territory, or whether it recognized the jurisdiction of the Government of Jammu and Kashmir over that territory. Mr. Korbelt remarked that that point incorporated the suggestion which the Prime Minister himself had advanced and that the phrase 'pending a final solution' was intended to recognize the temporary nature of the administration by local authorities. Sovereignty over the territory was not to be changed" [S/1100, annex 12, page 105].

In the letter, previously referred to, dated 20 August 1948 from the Prime Minister of India to the Chairman of the Commission the Prime Minister maintained :

"That, paragraph A. 3 of part II of the resolution should not be interpreted, or applied in practice, so as

"(a) To bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops;

"(b) To afford any recognition of the so-called Azad Kashmir Government or

"(c) To enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State" [S/1100, para. 78, 3 (1)].

In the same letter the Prime Minister said :

"If I understood you correctly, A. 3 of part II of the resolution does not envisage the creation of any of the conditions to which we have objected in paragraph 3(1) of this letter. In fact, you made it clear that the Commission was not competent to recognize the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government" [S/1100, para. 73, 4].

In the reply of the Chairman of the Commission to the Prime Minister of India on 23 August 1948, it was said:

"The Commission requests me to convey to Your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (1) (c) the local people of the evacuated territory will have freedom of legitimate political activity. In this connexion the term of evacuated territory refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command" [S/1100, para. 79].

2. Proposals of the United Nations Representative for India and Pakistan based upon the twelve proposals

The Governments of India and of Pakistan

1. Reaffirm their determination not to resort to force

and to adhere to peaceful procedures and specifically pledge themselves that they will not commit aggression or make war, the one against the other, with regard to the question of Jammu and Kashmir;

2. Agree that each Government, on its part, will instruct its official spokesmen and will urge all its citizens, organizations, publications and radio stations not to make warlike statements or statements calculated to incite the people of either nation to make war against the other with regard to the question of Jammu and Kashmir;

3. Reaffirm their will to observe the cease-fire effective from 1 January 1949 and the Karachi Agreement of 27 July 1949;

4. Reaffirm their acceptance of the principle that the question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite under the auspices of the United Nations;

5. Agree that the demilitarization of the State of Jammu and Kashmir contemplated in the UNCIP resolutions of 13 August 1948 and 5 January 1949, as set forth in paragraph 7 below, shall be effected in a single continuous process;

6. Agree that this process of demilitarization shall be completed during a period of ninety days, starting from the date of the entrance into effect of this agreement, unless another period is decided upon by the Governments of India and Pakistan;

7. Agree that the demilitarization shall be carried out in such a way that at the end of the period referred to in paragraph 6 above the situation will be:

A. On the Pakistan side of the cease-fire line;

- (i) The tribesmen and Pakistan nationals not normally resident therein who had entered the State for the purpose of fighting will have been withdrawn;
- (ii) The Pakistan troops will have been withdrawn from the State; and
- (iii) Large-scale disbanding and disarming of the Azad Kashmir forces will have taken place; so that at the end of the period of demilitarization there shall remain an armed force of 6,000. This force will have been separated from the administrative and operational command of the Pakistan High Command in accordance with paragraph 9. It will have no armour or artillery.

B. On the Indian side of the cease-fire line:

- (i) The bulk of the Indian forces in the State will have been withdrawn; and
- (ii) Further withdrawals or reductions, as the case may be, of the Indian and State armed forces remaining in the State after the completion of the operation referred to in B (i) above will have been carried out; so that at the end of the period of demilitarization there shall be an Indian army force of 21,000 including State armed forces. This force will be without armour or artillery.

8. Agree that the demilitarization shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period referred to in paragraph 6 above;

9. Agree that pending a final solution the territory evacuated by Pakistan troops will be administered by the local authorities under the surveillance of the United Nations. Effect shall be given to this by the time the process of demilitarization referred to in paragraph 6 has been completed on both sides of the cease-fire line;

10. Agree that the Government of India shall cause the Plebiscite Administrator to be formally appointed to office not later than the final day of the demilitarization period referred to in paragraph 6 above;

11. Agree that the completion of the programme of demilitarization referred to in the provisional clause below will be without prejudice to the functions and responsibilities of the United Nations Representative and the Plebiscite Administrator with regard to the final disposal of forces as set forth in paragraph 4 (a) and (b) of the 5 January 1949 resolution;

12. Agree that any differences regarding the programme of demilitarization contemplated in the provisional clause will be referred to the Military Adviser of the United Nations Representative and, if disagreement continues, to the United Nations Representative, whose decision shall be final.

PROVISIONAL CLAUSE

This agreement shall enter into effect when the Governments of India and Pakistan have approved a programme of demilitarization in conformity with paragraphs 5, 6, 7 and 8 above, the draft of such programme to be drawn up in meetings between the representatives of the Governments of India and of Pakistan assisted by their Military Advisers under the auspices of the United Nations. The first meeting shall take place within two weeks after the signature of the above agreement.

3. *Text of the Statement by Mr. Frank P. Graham, United Nations Representative for India and Pakistan to representatives of Governments of India and Pakistan on 4 February 1953, in Geneva*

I am happy to welcome the representatives of the Governments of India and Pakistan who have come to Geneva for the purpose of continuing negotiations on the question of the State of Jammu and Kashmir. I extend to them my cordial greetings.

The Governments of India and Pakistan, on 23 January, agreed to continue these negotiations.

"... on the basis of the UNCIP resolutions of 13 August 1948 and 5 January 1949 bearing in mind the assurances, clarifications and elucidations given to the Governments of India and Pakistan by the UNCIP. This basis of the resumption of the negotiations will be without prejudice to a further considerations, should that become necessary, of the twelve proposals".

May I take this opportunity to suggest, briefly, the procedure which might be followed in order to proceed with the negotiations on the agreed basis.

I should like to propose that we start with the examination of the resolution of 13 August 1948, part by part. In this way we may determine to what extent the resolution has already been implemented,* and define, as completely as possible, the obstacles which have until now impeded the implementation of those parts which have not yet been carried into effect. I hope that with regard to each of such obstacles it will be possible for the Governments concerned to indicate the conditions under which the obstacles might be removed.

In the light of this detailed examination of the resolutions, and taking into account the twelve proposals, I shall seek to submit to the representatives of the two Governments for discussion proposals for the removal of the obstacles which have prevented the full implementation of the two resolutions.

A. Text of the Letter transmitted to the United Nations Representative in Geneva, on 17 February 1953, by the Representative of India

I have now received the comments of my Government on the proposals of the United Nations Representative for India and Pakistan based upon the twelve proposals, which formed an enclosure to your letter dated the 14th February.

and am forwarding, herewith, a memorandum which states the views of the Government of India.

(Signed) G.S. Bajpai
Representative of India

MEMORANDUM

1. The Government of India have no comments on paragraphs 1 to 6, 8 and the provisional clause, except to suggest that, as agreed during the discussions at Geneva last September, paragraph 6 could be re-drafted so as to incorporate the substance of the provisional clause. This, however, is a minor drafting change.

2. As regards paragraph 7, the Government of India have no comments on A (i) and (ii), and B(i) and (ii).

On the question of Azad Kashmir forces referred to in paragraph A(iii), the Government of India would invite the attention of the United Nations Representative to section II of paragraph 1 of the Government of India's memorandum printed as annexure V to his fourth report to the Security Council. The Government of India are unable to agree to the retention of any military force in the so-called Azad Kashmir territory. Not only would this be contrary to the assurance given by UNCIP to India that the resolution of the 13th August should not be interpreted, or applied in practice, so as to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops, or to enable this territory to be consolidated in any way during the period of truce to the disadvantage of the State, but the presence of such a force which, by reason of its association with the Pakistan Army, constitutes a link with that Army, would be a threat to the security of the State. In the opinion of the Government of India, the function of preventing violations of the cease-fire line from the Azad Kashmir side can be effectively performed by a civil armed force to the formation of which they have already agreed. However, in order to meet the United Nations Representative's

point regarding the necessity of an adequate force to prevent infringement of the cease-fire line from the Azad Kashmir side, the Government of India are willing to agree to some increase in the numbers of the proposed civil armed force and also to the equipment of the armed section of this force with such weapons as may be considered suitable to ensure the satisfactory discharge of this function.

As regards paragraph 9 of the proposals, the Government of India consider that the question of local authorities has to be dealt with in the light of the assurances given to the Government of India by the United Nations Commission for India and Pakistan. For this purpose it is essential that local authorities should not be so evolved, nor so function in practice, as to bring into question the sovereignty of the Jammu and Kashmir Government over the evacuated territory or to let it be consolidated in any way to the disadvantage of the State. In the opinion of the Government of India this makes it necessary: (i) that the so-called Azad Kashmir Government shall not be allowed to function in this area either collectively or individually through their Ministers; (ii) that all officials appointed by the Pakistan Government shall cease to function; (iii) that no connexion shall be maintained between the local authorities and the Pakistan Government; and (iv) that the administration shall be conducted under the surveillance of the United Nations Representative by local officials who can be relied upon to discharge their duties effectively and impartially with strict regard to the needs and conditions of a fair and impartial plebiscite. The Government of India also consider that United Nations surveillance will have to be sufficiently wide and effective to ensure maintenance of peace and order in this area, and of a reasonable degree of administrative efficiency. The Government of India also contend that having regard to the definition of the term "evacuated territory" given by the Commission, the entire area on the Pakistan side of the cease-fire line and not merely the Azad Kashmir territory, should be administered by local authorities under the surveillance of the United Nations Representative.

As regards paragraph 10, the Government of India reaffirm the view stated in paragraph 2 of the aforesaid memorandum (Annex 5 to fourth report of the United Nations Representative).

The Government of India have made it clear in paragraph 3 of the aforesaid memorandum, that, so far as their forces are concerned, they have always understood the term "disposal" in paragraph 4 (a) of the UNCIP resolution of the 5th January, 1949, to mean "disposition" and not reduction or withdrawal. This is still their stand with regard to paragraph 11 of the proposals.

In paragraph 26 (ii) of his fourth report, the United Nations Representative has stated that the Government of India accepted paragraph 12 with the understanding that the differences referred to the United Nations Representative should be only on technical details referring to the actual implementation of the agreed programme. This is still the position of the Government of India.

APPENDIX

Truce Agreement

As regards the implementation of B. 1 and 2 of part II of the resolution of the 13th August, 1948, India's position is that the Azad Kashmir forces cannot be differentiated from the Pakistan Army of which they are, for all practical purposes, an integral part, and that their numbers, equipment and efficiency constitute a threat to the security of the State. The implementation, therefore, by Pakistan of A.1 and 2 of part II of the resolution will not materially diminish this threat which is aggravated by the ease with which, owing to the proximity of Pakistan's military cantonments, these forces could be quickly reinforced by the Pakistan Army. So long as agreement regarding the complete disbanding and disarming of the Azad Kashmir forces is not reached, a truce agreement cannot create "the conditions for a final settlement of the

situation in the State of Jammu and Kashmir". India is, therefore, unable to accept any reduction of its present forces except as part of an overall arrangement which includes not only the withdrawal of Pakistan troops, tribesmen and Pakistan nationals not normally resident in the State who have entered for the purpose of fighting but also agreement on the measures to be adopted for the complete disbanding and disarming of the Azad Kashmir forces.

5. Text of the Letter transmitted to the United Nations Representative in Geneva, on 17 February 1953, by the representative of Pakistan

On 14th February, 1953, you sent me a revised version of your twelve proposals together with a covering letter asking for my comments thereon. I took the opportunity of discussing these proposals with you on 16th February, 1953. In the course of this meeting I requested you to furnish me with your reasons for proposing 21,000 Indian and State armed forces for the Indian side as against 6,000 Azad Kashmir Forces for the other side of the cease-fire line. Your only observation was that the proposal had been framed with a view to obtaining the agreement of the Government of India to it.

As desired by you I am enclosing with this letter a short statement of my views concerning the course of the Geneva negotiations, and the substance of the discussion which I had with you on 16th February, 1953.

I told you during our discussion that in view of the considerations summarized in paragraph 9 of the enclosed memorandum I would not be justified in forwarding your revised proposals to the Government of Pakistan for their consideration but that I would do so if you so desired.

(Signed) Zafrulla Khan
Foreign Minister of Pakistan

Memorandum containing a resume of the Pakistan delegation's views concerning issues discussed at the Geneva conference from 4 February to 17 February 1953

I. Introductory

The Security Council's resolution of 23 December 1952 [S/2883] urged the Governments of India and Pakistan "to enter into immediate negotiations under the auspices of the United Nations Representative for India and Pakistan in order to reach agreement on the specific number of forces to remain on each side of the cease-fire line at the end of the period of demilitarization, this number to be between 3,000 and 6,000 armed forces remaining on the Pakistan side of the cease-fire line and between 12,000 and 18,000 armed forces remaining on the Indian side of the cease-fire line . . .".

The Government of Pakistan accepted the resolution; the Government of India rejected it.

The United Nations Representative was thus compelled to seek a formula for resumption of negotiations acceptable to the Governments of India and Pakistan. Such a formula was ultimately devised, and was accepted by the parties on 23 January 1953. It read:

"The Governments of India and Pakistan agree to continue negotiations on the question of the State of Jammu and Kashmir on the basis of the UNCIP resolutions of 13 August 1948 and 5 January 1949 bearing in mind the assurances, clarifications and elucidations given to the Governments of India and Pakistan by the UNCIP. This basis for the resumption of the negotiations will be without prejudice, should that become necessary, to a further consideration of the twelve proposals."

The leader of the Pakistan delegation made it clear, however, that if the negotiations to formulate a truce agreement on the basis of the two UNCIP resolutions did not prove successful and a reversion to consideration of the twelve proposals became necessary Pakistan would insist that the figures

proposed in the Security Council's resolution of 23 December 1952 must form the basis of the numbers to be ultimately fixed.

II. Negotiations at Geneva—First Phase

The first six days of negotiations were devoted to an examination of the 13 August 1948 resolution of UNCIP. The first part of the resolution having already been implemented an attempt was made to formulate a truce agreement on the basis of the principles set out in part II of the resolution.

Part II of the 13 August 1948 resolution of UNCIP deals mainly with the problem of partial demilitarization of the State of Jammu and Kashmir preparatory to the induction into office of the Plebiscite Administrator. The obligations of the parties in this respect are as under:

I. Obligations of Pakistan

- (i) The Government of Pakistan will "use its best endeavour" to secure the withdrawal from the State of Jammu and Kashmir of all tribesmen.
- (ii) The Government of Pakistan will withdraw from the State such Pakistan nationals as are "not normally resident therein who have entered the State for the purpose of fighting".
- (iii) The Government of Pakistan "agrees to withdraw its troops from the State".

II. Obligations of India

- (i) When the Commission (now the United Nations Representative) informs the Government of India that tribesmen and Pakistan nationals have withdrawn and further that the Pakistan forces are being withdrawn "the Government of India agrees to begin to withdraw the bulk of their forces from that State in stages to be agreed upon with the Commission" (now the United Nations Representative).

- (ii) Pending the acceptance of conditions for a final settlement of the situation "the Indian Government will maintain within the lines existing at the moment of cease-fire the minimum strength of its forces which in agreement with the Commission (now the United Nations Representative) are considered necessary to assist local authorities in the observance of law and order".

It will be seen that under the resolution the withdrawal of Pakistan troops is contingent upon the withdrawal of the "bulk" of the Indian Army [clause B (1)]. The UNCIP had explained that "synchronization of the withdrawal of the armed forces of the two Governments will be arranged between the respective High Commands and the Commission" (S/1100, Annex 27, appendix, para. 10).

It was reaffirmed by the Pakistan delegation on 5 February 1953 that once a satisfactory truce agreement based on the above principles was arrived at, the Government of Pakistan would proceed to fulfil all the obligations that devolved on it.

The problem thus resolved itself into one of securing India's agreement to withdraw the "bulk" of its forces from the State of Jammu and Kashmir as provided for in part II of the 13 August 1948 resolution. The Pakistan delegation is not aware of the efforts made by the United Nations Representative in this regard. On 10 February 1953 it was informed by the United Nations Representative that the figure of troops that India had proposed for withdrawal in terms of clause B (1) of part II of the 13 August 1948 resolution of UNCIP was not such as the United Nations Representative could sponsor for acceptance by Pakistan.

This effort to secure the agreement of the Government of India to a truce having failed, the United Nations Representative decided to revert to an examination of his twelve proposals.

III. Negotiations at Geneva—Second Phase

In the meetings that were held by the United Nations Representative to discuss his twelve proposals the Pakistan delegation made it clear that it could not countenance the discussion of any troop figures for the two sides of the cease-fire line beyond the range of figures proposed in the Security Council's resolution of 23 December 1952. This insistence on adherence to the formula contained in the Security Council resolution was due to the affirmation of the Security Council, that the range of figures set out in the resolution of 23 December 1952 had been determined after careful consideration of the military needs on both sides of the cease-fire line.

The Pakistan delegation explained that as a general principle it would ask for the retention of a comparable number of Azad Kashmir forces on the Azad Kashmir side of the cease-fire line if India insisted upon the retention of a substantial force (within the numbers permitted by the Security Council in its resolution of 23 December 1952) on its side of the cease-fire line, but that if India agreed to reduce the forces on its side to a sufficiently low figure Pakistan could agree to greater disparity between the two forces.

The United Nations Representative presented a revised version of his twelve proposals on 14 February 1953. In discussing these proposals with the Pakistan delegation on 16 February 1953, the United Nations Representative explained that by the term "armed forces" in sub-paragraph (iii) of paragraph 7A of the proposals was meant the Azad Kashmir Forces, it being understood that at the end of the period of demilitarization administrative and operational control over these forces would pass over from G.H.Q. (Pakistan) to the local authorities.

The comments of the Pakistan delegation on these proposals as explained by the United Nations Representative are as follows :

- (i) Paragraph 7 of the proposals contravenes the Security Council's resolution of 23 December 1952.

- (ii) In the debate that preceded the adoption by the Security Council of its resolution of 23 December 1952 the members of the Council were at pains to affirm and explain that the bracket of figures of troops proposed in the United Kingdom-United States draft resolution on Kashmir had been arrived at after taking into account the military needs of both the Indian occupied areas of the State and Azad Kashmir. No reasons have been advanced by the United Nations Representative to justify any change. The figure of troops for the Indian side of the cease-fire line has been arbitrarily raised, without any justification, to 21,000. The Pakistan delegation is convinced that if 21,000 Indian and State armed forces are allowed to remain on the Indian side of the cease-fire line as against only 6,000 Azad Kashmir forces, the security of the Azad Kashmir area would be put in serious jeopardy.
- (iii) The figures now suggested by the United Nations Representative would destroy the safeguard contained in paragraph 8 of the twelve proposals (and already accepted by both sides) that "demilitarization shall be carried out in such a way as to involve no threat to the cease-fire agreement either during or after the period" of demilitarization.
- (iv) The figures now proposed have avowedly no other object than to meet India's wishes with regard to the number of forces to be retained on its side of the cease-fire line. This fails to take into account the corresponding needs of security on the Azad Kashmir side of the cease-fire line. This process of continuously yielding ground in face of Indian intransigence amounts in effect to an endorsement and abetment of the Indian attitude. It is a clear indication to India that its sustained attitude of intransigence would ultimately procure the formulation of a truce agreement on its own terms.

